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 ORIGINAL

BRIEFING BY THE INTELLIGENCE COMMUNITY INSPECTOR GENERAL

Friday, October 4, 2019

U.S. House of Representatives,
Permanent Select Committee on Intelligence,
Washington, D.C.

The committee met, pursuant to call, at 10:40 a.m., in
Room HVC-304, Capitol Visitor Center, the Honorable Adam
Schiff (chairman of the committee) presiding.

Present: Representatives Schiff, Himes, Sewell, Carson,
Speier, Quigley, Swalwell, Castro, Heck, Welch, Maloney,
Demings, Krishnamoorthi, Nunes, Conaway, Wenstrup, Stewart,
Crawford, Hurd, and Ratcliffe.

Staff Present:

[REDACTED]

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1 THE CHAIRMAN: The committee will come to order.

2 Good morning, and welcome back to the committee,
3 Mr. Atkinson. Once again, I want to thank you and your staff
4 for your diligence, your persistence, and your courage in
5 ensuring that this committee and, in this case, the American
6 people can act on the urgent, credible complaint of an
7 anonymous American patriot.

8 Now that we have read the complaint and the rough
9 transcript of the President's July 25th call with Ukrainian
10 President Zelensky, the committee, both in its oversight
11 capacity and as the lead in the House's formal impeachment
12 inquiry, has asked you back to more fully explain the steps
13 between the filing of the complaint on August 12th and its
14 transmittal to the committee on the night of September 25th.

15 We hope to better understand the internal deliberations
16 inside your office, the steps you took to corroborate the
17 whistleblower's complaint, and the struggle with the DNI to
18 secure its forwarding to the Congress, as mandated by the
19 Intelligence Community Whistleblower Protection Act.

20 We also hope that you will be able to shed light on
21 interaction between your office and other elements of the
22 executive branch, especially the Department of Justice and
23 the White House.

24 As always, we believe that the protection of this and
25 other lawful whistleblowers is paramount. In our discussion

1 today and going forward, we will do our utmost to ensure the
2 confidentiality of this person is protected.

3 I now yield to the ranking member for any remarks that
4 he'd like to make.

5 MR. NUNES: Thank you, Mr. Chair.

6 We have just a few housekeeping questions here. So,
7 today, we're under the House Intelligence Committee rules, or
8 are we under the House impeachment formal inquiry process?

9 And if so, if it's the latter, then we need it know what
10 that -- what are the rules governing that process?

11 THE CHAIRMAN: This interview today is not being
12 conducted in combination with the two other committees, like
13 the interview that we had yesterday. So this will be under
14 the HPSCI rules.

15 MR. NUNES: Okay. So then -- and what is the rule --
16 so, yesterday, we had a little bit of a challenge with
17 understanding, what are the rules governing this structure
18 for your -- for the impeachment inquiry?

19 THE CHAIRMAN: Well, if you're talking about the broader
20 House, then I will leave you to discuss --

21 MR. NUNES: No, I'm talking about this committee is
22 supposedly the lead on this impeachment inquiry with the
23 other two committees.

24 THE CHAIRMAN: Well, for the purposes of today's
25 interview with the Inspector General, we will conduct it as

1 we did the last time the Inspector General came in.

2 MR. NUNES: Okay. So we just found out right before
3 this started that we're changing, because last time we were
4 30 minutes/30 minutes; now we're going 45/45?

5 THE CHAIRMAN: Yes. I don't consider that to be a very
6 substantial change, but yes.

7 MR. NUNES: Right. It just would be good to know ahead
8 of time. So is that going to be the standard, moving
9 forward, for --

10 THE CHAIRMAN: You know, I --

11 MR. NUNES: -- the Intelligence Committee or -- and what
12 about the impeachment inquiry committee?

13 THE CHAIRMAN: Yeah. I think that it will depend a lot
14 on the nature of the witness and how long we expect the
15 interview to go, whether there's a large body of documents to
16 go through with the witness. If the issues are fairly
17 simple, then we can go back and forth in short order. If
18 it's more complicated and you need time to go through a body
19 of documents, I think it makes sense to do it in longer
20 periods. And --

21 MR. NUNES: But you're talking about specifically for
22 this committee's rules. It's your prerogative. For the
23 House Intelligence Committee's rules, you're going to leave
24 it as your prerogative to decide whether it's 15 or 30 or
25 45 or an hour, which is fine. We just want to know, moving

1 forward.

2 THE CHAIRMAN: Yes. And if there is a concern with what
3 I am proposing in terms of the time, then please feel free to
4 express that you'd like more time, less time, or whatnot, and
5 we'd be happy to consider that.

6 MR. NUNES: Okay. And then what about the rules, moving
7 forward, for the impeachment inquiry joint committee's
8 process?

9 THE CHAIRMAN: Well, if you're talking about further
10 interviews, depositions, and hearings, it will depend on
11 whether those are done solely by the Intelligence Committee
12 or those are done in combination with other committees. And
13 so we'll have to deal with that on a case-by-case basis.

14 MR. NUNES: Okay. So, final question: Do you
15 consider -- is this hearing today for the impeachment inquiry
16 joint committee, or is this --

17 THE CHAIRMAN: It's not a joint committee. This is an
18 Intel interview/briefing by the Inspector General about the
19 complaint, just like the last one that we had.

20 MR. NUNES: Not impeachment. This is --

21 THE CHAIRMAN: It is --

22 MR. NUNES: -- not related to impeachment.

23 THE CHAIRMAN: It is part of the investigation under the
24 umbrella of the impeachment inquiry.

25 MR. NUNES: But this one is a House Intelligence

[REDACTED]

1 Committee only today.

2 THE CHAIRMAN: Yes. There shouldn't be staff or members
3 from any of the other committees here today.

4 MR. NUNES: Okay. All right. I think that's good.

5 Welcome back, Inspector General. Thanks for being here.
6 We look forward to questions.

7 THE CHAIRMAN: And I understand, Inspector General, you
8 had an opening statement you'd like to make?

9 MR. ATKINSON: Yes, I do. Thank you, Chairman Schiff
10 and Ranking Member Nunes.

11 Good morning. My name is Michael Atkinson. I am the
12 Inspector General of the Intelligence Community.

13 I want to reintroduce to you Robin Ashton and [REDACTED]
14 [REDACTED]. Ms. Ashton is the Principal Deputy Inspector General
15 of the Intelligence Community. [REDACTED] is [REDACTED]
16 [REDACTED] for the Inspector General of the Intelligence
17 Community.

18 I am here this morning to provide more details, to the
19 extent that I can, about the preliminary review that my
20 office did after it received the whistleblower's complaint on
21 August 12th, 2019. To manage your expectations, I think this
22 statement will take approximately 20 minutes.

23 There is one important point that I want to make now and
24 I will continue to emphasize when I answer any questions you
25 may have for me: I understood that what my office did as

[REDACTED]

1 part of its 14-calendar-day preliminary review was going to
2 be part of a process. I was at the beginning of the process.
3 I was the start of an investigative process. I expected the
4 investigative process would continue after I made my
5 determination on the urgency and the credibility of the
6 disclosure at the end of the 14-calendar-day review period.

7 I took my statutory responsibility to figure out whether
8 the matter was urgent and appeared credible within that
9 14-calendar-day period very seriously. From the moment I saw
10 the disclosure, I understood the gravity of what I was
11 reading.

12 I understood that I would have the first word on
13 determining whether the complaint was urgent and whether the
14 information appeared credible, but I knew that I would not
15 have the last word on those initial and important
16 determinations. I expected that other investigative steps --
17 many, many other investigative steps -- would follow after
18 the 14-calendar-day period that I had to conduct a
19 preliminary review.

20 I expected to convert my office's preliminary review
21 into an investigation, most likely with a law enforcement
22 entity, after the 14-calendar-day period review. I expected
23 the Federal Bureau of Investigation to investigate the
24 allegations. I expected other inspectors general to
25 investigate the allegations. And I expected that Congress,

1 particularly the congressional Intelligence Committees, would
2 investigate the allegations.

3 I will discuss the evidence that we were able to
4 corroborate that informed my determination that the complaint
5 was urgent and appeared credible. That evidence comes
6 principally from four witnesses: the complainant; two of the
7 complainant's supervisors; and an Intelligence Community
8 employee, contractor, or detailee who had direct access to
9 written records of the telephone call that took place on
10 July 25th, 2019, between President Trump and the Ukrainian
11 President.

12 To be clear, we did not attempt to corroborate every
13 allegation or even many of the allegations in the
14 complainant's disclosure. As you now know, the complainant's
15 disclosure covers a time period of several months, with
16 alleged events happening in several countries. We simply did
17 not have the time to attempt to corroborate every or even
18 many of those allegations.

19 At my direction, my office focused on what I viewed as
20 potentially the most serious or flagrant problem, abuse, or
21 violation of law. To me, the most serious or flagrant
22 problem, abuse, or alleged violation of law was the
23 complainant's allegation that President Trump sought
24 assistance from a foreign leader to influence a
25 U.S. election. I focused my office's preliminary review on

1 trying to corroborate the substance of the President's
2 telephone conversation, specifically the allegation that the
3 President sought foreign assistance to influence a
4 U.S. election.

5 I will explain why I decided to focus on the President's
6 telephone conversation during the 14-calendar-day period.

7 One reason was because it was relatively recent. The
8 call had taken place less than 3 weeks before the filing of
9 whistleblower complaint.

10 Another reason was because the President's call struck
11 me as potentially, again, the most serious or flagrant
12 problem, abuse, or violation of law.

13 And another reason was because I learned during the
14 preliminary review that there were written records of the
15 call. As a former Federal prosecutor, I cannot impress upon
16 you how important it was for me to learn that there was a
17 written record of the call. I felt that if we could talk to
18 someone who had seen firsthand the written record and who
19 could confirm that a written record existed and get their
20 recollection of the written record, that it would be very
21 important to my credibility determination.

22 Our preliminary review did not obtain evidence from
23 the -- excuse me. Our preliminary review did obtain evidence
24 from the complainant and the other witnesses related to other
25 allegations in the complainant's disclosure beyond the

1 alleged substance of the President's call. Because of the
2 compressed 14-day time period for our review, we did not
3 attempt to corroborate those allegations.

4 That evidence includes the names of other individuals,
5 including U.S. public officials, allegedly involved in the
6 activities that span the months-long time period outlined in
7 the complainant's disclosure.

8 Because we have not corroborated that evidence and
9 because of my concerns about the privacy and reputational
10 rights for those other individuals identified during the
11 preliminary review, I will not discuss the evidence that we
12 obtained during our preliminary review that we did not have
13 an opportunity to corroborate.

14 To be clear, I understand that evidence beyond the
15 July 25th, 2019, telephone call that we obtained during our
16 preliminary review is relevant to the committee's ongoing
17 investigation. My office will cooperate, to the extent that
18 it can, in the committee's ongoing investigation. But I want
19 to make sure that the process is fair to any individuals
20 identified during our preliminary review.

21 I will share the names of individuals identified during
22 the preliminary review by the witnesses when I have
23 assurances that the process will be fair to those individuals
24 so identified or, if I cannot obtain those assurances, when I
25 am compelled to do so.

There is one thing I am not able to divulge at this time, and that is the identities of the witnesses who participated in our investigation. Many people have asked why I will not disclose the identity of the whistleblower even now and in a classified setting such as this.

First, I am bound by the governing statute at 50 United States Code, section 3033. It describes, among other things, the rules the whistleblower must follow when filing a disclosure of urgent concern to ensure that the whistleblower's concerns are heard but that no classified information is disclosed without authorization. Such an unauthorized disclosure could lead to serious steps being taken against the whistleblower, up to and including criminal prosecution.

As I and Acting Director of National Intelligence Joseph Maguire have stated previously, the complaint appears to have followed the rules with regard to this matter.

The statute clearly provides that the whistleblower may remain anonymous throughout this process. 50 U.S.C., section 3033(g)(3)(a) says, quote, "The Inspector General shall not disclose the identity of the employee without the consent of the employee unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for

1 determining whether a prosecution should be undertaken."

2 Senator Grassley reiterated this important
3 responsibility to the whistleblower in a statement he issued
4 on October 1st when he said, quote, "This person appears to
5 have followed the whistleblower protection laws and ought to
6 be heard and protected. We should always work to respect
7 whistleblowers' requests for confidentiality," end quote.

8 Those same protections and rights to confidentiality
9 apply to the other witnesses who cooperated in the IC IG's
10 preliminary review of this matter.

11 In addition to those legal requirements, I am also bound
12 by the personal commitments that I have made to stand by
13 whistleblowers even when the going gets tough. During my
14 confirmation hearing, when I was asked repeatedly by numerous
15 Senators on both sides of the aisle about my commitment to
16 the IC IG's whistleblower program and to whistleblowers in
17 the Intelligence Community generally, I testified under oath
18 that I would work with Congress, quote, "to encourage,
19 operate, and enforce a program for authorized disclosures
20 within the Intelligence Community that validates moral
21 courage without compromising national security and without
22 retaliation," end quote.

23 I said that I would, quote, "enforce a safe program
24 where whistleblowers do not have fear of retaliation and
25 where they're confident that the system will treat them

1 fairly and impartially so that we can secure national
2 security and allow whistleblowers to make their complaints of
3 unethical or illegal behavior without risking unauthorized
4 disclosures," end quote.

5 I remain committed to living up to and upholding those
6 sworn statements.

7 Let me make one other point clear. There is no formal
8 report of my office's preliminary review. My report of the
9 preliminary review is the letter that I wrote to the Acting
10 DNI on August 26, 2019, and which has been provided to you.

11 So let me start at the beginning.

12 On the evening of Monday, August 12th, 2019, my office's
13 hotline received an email on our classified system from the
14 complainant requesting to make a protected disclosure of a
15 matter with respect to an urgent concern.

16 The complainant's disclosure included an unclassified
17 statement and a classified appendix. Those are the materials
18 that have since been remarked and made available to the
19 committee. The disclosure also included an email to the
20 Intelligence Community Inspector General's hotline and a
21 letter addressed to the Intelligence Community Inspector
22 General. We have produced all of those documents in redacted
23 form to the committee.

24 The next day, August 13th, 2019, the IC IG's hotline
25 contacted the complainant to obtain additional information

[REDACTED]

1 from the complainant. The hotline provided the complainant
2 with an internal form, called the Disclosure of Urgent
3 Concern Form. The complainant filled out the form and
4 returned it to the hotline later in the day on August 13th,
5 2019. We have provided a redacted copy to the committee of
6 the Disclosure of Urgent Concern Form.

7 In addition, on August 13th and 14th, 2019, the IC IG's
8 hotline coordinated internally to address the complainant's
9 questions related to confidentiality, transmittal of the
10 disclosure to Congress, and required reporting related to
11 legal representation.

12 The IC IG hotline also coordinated a classification
13 review by my office on the information provided as part of
14 the disclosure. In other words, my office did a
15 classification review of the materials. We did not share the
16 information with anyone outside of the IC IG for purposes of
17 that classification review.

18 On the afternoon of August 15th, 2019, the complainant's
19 disclosure was provided to me. Because of the sensitivity of
20 the matter, I assembled a team of four individuals, including
21 me, to review the complainant's disclosure.

22 We reviewed the matter to determine whether it would
23 meet the legal threshold for an urgent concern. Was it a
24 flagrant or serious problem or abuse or violation of law or
25 Executive order? Second, did it relate to the funding,

[REDACTED]

1 administration, or operation of an intelligence activity
2 within the responsibility and authority of the Director of
3 National Intelligence involving classified information? And,
4 third, did the information appear credible?

5 At my direction, as I have stated previously, my
6 office's preliminary review focused on what I viewed to be as
7 potentially the most flagrant or serious problem or abuse or
8 violation of law or Executive order.

9 The complainant alleged that President Trump solicited
10 foreign election assistance from the President of Ukraine on
11 their telephone call on July 25th, 2019. I directed my
12 office's efforts at attempting to corroborate the substance
13 of the President's telephone call.

14 On August 20th, 2019, my office interviewed the
15 complainant as part of the preliminary review. We have
16 produced in redacted form that memorandum of investigative
17 activity.

18 During that interview, the complainant explained that
19 the complainant talked to two individuals with direct
20 knowledge of the President's telephone call. One individual,
21 who I will call Witness One, listened to the telephone call
22 in real-time. A second individual, who I will call Witness
23 Two, reviewed written records of the telephone call after the
24 call had taken place.

25 The complainant made a contemporaneous record of the

[REDACTED]

1 complainant's conversation with Witness One regarding the
2 call. This is the document entitled "Memorandum of
3 Conversation" dated 26 July 2019. We have produced a
4 redacted version of this memorandum.

5 Witness One, according to the complainant, reported that
6 the, quote, "President used the call to persuade Ukrainian
7 authorities to investigate his political rivals, chiefly Vice
8 President Biden and his son Hunter," end quote.

9 The memorandum also states, quote, "The official stated
10 that there was already a conversation underway about how to
11 handle the discussion, because, in the official's view, the
12 President had clearly committed a criminal act by urging a
13 foreign power to investigate a U.S. person for the purpose of
14 advancing his own reelection in 2020," end quote.

15 Witness One, according to the complainant, reported that
16 the President had also referenced the CrowdStrike server.
17 Witness One provided information on Rudy Giuliani and
18 Attorney General Barr.

19 During the interview on August 20th, 2019, the
20 complainant also provided information about Witness Two.
21 Witness Two, who had read a written report of the telephone
22 call, had discussed the written report with the complainant.
23 According to the complainant, Witness Two was the main source
24 of information contained in section 2 of the complainant's
25 unclassified disclosure, which has already been provided to

[REDACTED]

1 the committee.

2 As part of the complainant's interview, I had directed
3 the interviewers to ask the complainant to self-disclose
4 potential bias information. The complainant self-disclosed
5 that the complainant was a registered member of the
6 Democratic Party. The complainant also self-disclosed that
7 the complainant had a prior professional relationship with
8 one of the Democratic Presidential candidates for the 2020
9 election.

10 Also on August 20th, 2019, the IC IG interviewers spoke
11 with two of the complainant's supervisors. We have produced
12 redacted versions of those memorandum of investigative
13 activity. Both supervisors indicated that the complainant
14 was highly respected, a top performer, and a serious and
15 knowledgeable expert on much of the subject matter upon which
16 the complaint touched. Both supervisors considered the
17 complainant to be a credible person. Neither supervisor
18 considered the complainant to be biased in any way.

19 Both supervisors acknowledged the complainant had shared
20 a copy of the complainant's intended disclosure with them
21 before the complainant submitted the disclosure to the IC IG.
22 Both supervisors, both of whom are senior Intelligence
23 Community officials, believed that the information in the
24 complainant's disclosure appeared to be credible.

25 After those three interviews were concluded, I directed

[REDACTED]

1 the interviewers to interview Witness Two. On August 21st,
2 2019, the interviewers contacted the complainant. We have
3 produced a redacted version of that memorandum of
4 investigative activity. The complainant provided the
5 identity and contact information for Witness Two.

6 Later that day, on August 21st, 2019, the interviewers
7 met in person with Witness Two. We have produced a redacted
8 version of that memorandum of investigative activity.

9 Witness Two related to the interviewers Witness Two's
10 recollection of the events surrounding the July 25th, 2019,
11 telephone call. Witness Two reviewed the written record of
12 the call as part of Witness Two's official duties.

13 Witness Two corroborated that the written record had been
14 placed into a heavily compartmented system at the National
15 Security Council.

16 Witness Two stated that Witness Two reviewed the call
17 record within a week of when the call occurred. Witness Two
18 recalled reading in the call record information about the
19 CrowdStrike servers housed in Ukraine; the unfair or poor
20 treatment of the Ukrainian federal prosecutor; that the
21 prosecutor was privy to information regarding the Biden
22 family, particularly Hunter Biden; and that President Trump
23 was going to send Rudy Giuliani and Attorney General Barr to
24 speak with the Ukrainian federal prosecutor and possibly to
25 meet with others from President Zelensky's administration.

[REDACTED]

1 Witness Two stated that the implicit message from the
2 President's references read somewhat as a, quote, "request
3 for assistance."

4 Witness Two also stated that, in hindsight, it became
5 clear that there was a quid pro quo situation happening due
6 to the sudden freezing of foreign military and congressional
7 assistance to Ukraine without explanation. It was clear to
8 Witness Two, from reading the call record, that President
9 Trump wanted something.

10 According to Witness Two, President Trump wanted
11 President Zelensky to ensure the Ukrainian federal prosecutor
12 was treated deferentially and that President Trump wanted
13 President Zelensky's administration to provide information on
14 the CrowdStrike servers or on the Biden family to Barr and
15 Giuliani -- to Attorney General Barr and Rudy Giuliani.

16 Witness Two had no recollection of an explicit reference
17 by President Trump to the 2020 Presidential elections, but
18 that seemed implicit to Witness Two when Witness Two, quote,
19 "read between the lines," end quote, of what was said.

20 Witness Two had also learned that Mr. Giuliani traveled
21 to Madrid earlier in August to meet with President Zelensky's
22 representatives.

23 Witness Two concluded that President Trump's statements
24 to President Zelensky seemed to be politically motivated
25 solicitations, were out of the norm, and were, quote, "an

[REDACTED]

1 affront to truth, justice, and the American way," end quote.

2 I was briefed on the substance of Witness Two's
3 interview on the evening of August 21st, 2019. Based on
4 Witness Two's direct access to the call records and Witness
5 Two's recollection that President Trump appeared to solicit
6 foreign assistance in a U.S. election, together with the
7 other information obtained during the preliminary review, I
8 was reasonably confident as of August 21st, 2019, that the
9 complainant's allegations with regard to the substance of the
10 President's call on July 25th, 2019, appeared credible and
11 that those allegations related to an urgent concern within
12 the Director of National Intelligence's jurisdiction.

13 On August 22nd, 2019, I met with the Office of the
14 Director of National Intelligence's general counsel, Jason
15 Klitenic, and [REDACTED], [REDACTED]
16 [REDACTED], to discuss the matter. The purpose of the meeting
17 was for me to brief them so that they could brief the Acting
18 DNI on the existence of the matter and of my preliminary
19 determination that the matter was urgent and appeared
20 credible.

21 I shared the substance of the complainant's disclosure
22 with Mr. Klitenic and [REDACTED] at that meeting on
23 August 22nd, 2019, but I did not provide a copy of the
24 complainant's disclosures to them at that time. I also
25 alerted Mr. Klitenic and [REDACTED] that I intended to refer

[REDACTED]

1 the matter to the FBI.

2 The next day, August 23rd, 2019, I met with the Acting
3 DNI, Joseph Maguire, and Mr. Klitenic. At that time, I
4 shared a copy of the complainant's unclassified letter and
5 classified appendix with the Acting DNI and Mr. Klitenic.

6 I walked them through my preliminary analysis. I
7 discussed some of the steps that my office had taken during
8 the preliminary review to attempt to corroborate the
9 substance of the President's telephone call on July 25th,
10 2019. We discussed, among other things, that I did not have
11 access to the written records of the call and that I had not
12 yet requested written records of the call.

13 I informed the Acting DNI that I intended to transmit my
14 determination of a credible, urgent concern to him on Monday,
15 August 26th, 2019, which would trigger his 7-calendar-day
16 review. I also informed the Acting DNI that I intended to
17 pursue an investigation of the matter or to participate in an
18 investigation with the appropriate authorities.

19 I gave the Acting DNI advance notice of my intent to
20 pursue an investigation of the matter in case he wanted to
21 exercise his statutory right to prohibit such an
22 investigation on the grounds of national security.

23 On Monday, August 26th, 2019, I transmitted my
24 determination of a credible, urgent concern to the Acting
25 DNI, along with the complainant's unclassified letter and

1 classified appendix.

2 Also on August 26th, 2019, very shortly after I had
3 transmitted my determination of a credible, urgent concern to
4 the Acting DNI, my office transmitted an access request and a
5 document-hold notice to the White House counsel to request
6 access to and preservation of all records related to the
7 President's July 25th, 2019, telephone call and alleged
8 related efforts to solicit, obtain, or receive assistance
9 from foreign nationals in Ukraine, directly or indirectly, in
10 connection with a Federal election.

11 I requested access to those records on or before
12 September 30th, 2019. I copied the Acting DNI on that access
13 and preservation request. We have provided a copy of that
14 access and preservation request to the committee.

15 Now, in the context of my urgent concern determination,
16 I'd like to discuss the question of whether a complainant,
17 when submitting a complaint with respect to an urgent
18 concern, must possess firsthand knowledge versus secondhand
19 or hearsay knowledge.

20 The whistleblower statute does not require that a
21 whistleblower possess firsthand information before submitting
22 a complaint with respect to an urgent concern. As Senator
23 Grassley accurately stated on October 1st, quote "When it
24 come to whether someone qualifies as a whistleblower, the
25 distinctions being drawn between first- and secondhand

[REDACTED]

1 knowledge aren't legal ones. It's just not part of the
2 whistleblower protection law or any agency policy.
3 Complaints based on secondhand information should not be
4 rejected out of hand, but they do require additional legwork
5 to get the facts and evaluate the claim's credibility," end
6 quote.

7 While a complainant need not possess firsthand
8 information, the complainant in the present case possessed
9 first- and secondhand information. On the Disclosure of
10 Urgent Concern Form the complainant submitted on August 12th,
11 2019, the complainant, in fact, checked two relevant boxes.
12 The first box stated, quote, "I have personal and/or direct
13 knowledge of events or records involved," end quote, and the
14 second box stated that, quote, "other employees have told me
15 about events or records involved," end quote.

16 As part of my determination that the urgent concern
17 appeared credible, I found that the complainant had official
18 and authorized access to the information and sources
19 referenced in the complainant's letter and classified
20 appendix; that the complainant had direct knowledge of
21 certain alleged conduct; and that the complainant had
22 subject-matter expertise related to much of the material
23 information provided in the complainant's letter and
24 classified appendix. At no time did the complainant or I
25 suggest that the complainant possessed only hearsay

[REDACTED]

1 information.

2 The complainant has described to the IC IG the events
3 that the complainant has firsthand knowledge about. The IC
4 IG has redacted that information, however, because it could
5 lead to the identity of the complainant.

6 In short, although the complainant's letter acknowledged
7 that the complainant was not a direct witness to the
8 President's July 25th, 2019, telephone call with the
9 Ukrainian President, I determined that this was not a
10 situation where the complainant could provide nothing more
11 than secondhand or unsubstantiated assertions, which would
12 have made it much harder and significantly less likely for me
13 to determine during my 14-calendar-day period that the
14 complaint appeared credible.

15 Now, to return to the chronology, on the morning of
16 August 27th, 2019, I placed a call to the Director of the
17 FBI. I left a message that it was an urgent matter.

18 Shortly thereafter, on that same day, August 27th, 2019,
19 I received a call back from Paul Murphy, Director Wray's
20 chief of staff. I discussed the substance of the
21 complainant's disclosure with Mr. Murphy. Mr. Murphy
22 informed me that Mr. Murphy would get back to me with a point
23 of contact.

24 Also on August 27th, 2019, I received a telephone call
25 from lawyers at the National Security Council acknowledging

[REDACTED]

1 receipt of the IC IG's access request and document-hold
2 notice. The NSC lawyers represented to me that they would
3 put a document hold in place, as requested by the IC IG.

4 On August 29th, 2019, the FBI's Mr. Murphy and the FBI's
5 Deputy Assistant Director for the Counterintelligence
6 Division contacted the IC IG regarding this matter.

7 On August 30th, 2019, I participated in a telephone call
8 with Mr. Klitenic, [REDACTED], and two lawyers from the
9 Department of Justice's Office of Legal Counsel. I explained
10 why I believed the complainant's disclosure was within the
11 DNI's jurisdiction.

12 During the call, I understood that OLC was preliminarily
13 of the view that the complainant's disclosure was not within
14 the DNI's jurisdiction and, thus, transmittal of the
15 disclosure to the congressional Intelligence Committees would
16 not be required. The DOJ lawyers stated that they expected
17 to share a draft of their legal opinion by Monday,
18 September 2nd, 2019.

19 On Monday, September 2nd, 2019, Labor Day, OLC sent a
20 draft of its legal opinion, in which it concluded that the
21 complainant's disclosure was not within the DNI's
22 jurisdiction and, thus, transmittal of the disclosure to the
23 congressional Intelligence Committees would not be required.

24 I was offered an opportunity to provide comments on the
25 draft OLC opinion, but I declined to offer any comments on

[REDACTED]

[REDACTED]

1 the draft opinion since I had provided my views on
2 August 30th and they had clearly been rejected by OLC.

3 On September 3rd, 2019, I learned during a telephone
4 call with Mr. Klitenic that OLC would be finalizing its
5 report later that day.

6 That same day, September 3rd, 2019, in anticipation that
7 OLC would determine that my office, the IC IG, did not have
8 jurisdiction to investigate the matter, I arranged for a
9 meeting with the inspectors general from the Department of
10 Justice, the Department of State, and the Department of
11 Defense. With the complainant's consent, I shared with those
12 inspectors general the complainant's disclosure. My purpose
13 in sharing that information was to provide them with an
14 opportunity to investigate the matter.

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[REDACTED]

MR. ATKINSON: On September 4th, 2019, I received a copy of the final version of the OLC opinion. After I received the OLC opinion on September 4th, 2019, which found that the IC IG did not have jurisdiction to investigate the matter, my office did not take any additional investigative steps.

On September 4th, 2019, I made a formal written referral of the matter to the FBI in a letter to the FBI's Deputy Assistant Director for the Counterintelligence Division. I included in that letter the complainant's letter and classified appendix. I provided a copy of the materials to Mr. Murphy, the FBI chief of staff, and to Brian Benczkowski, the Assistant Attorney General for the Department of Justice's Criminal Division. I also provided a copy of the letter to the Acting DNI. I mentioned in the letter that the allegations, if true, might violate campaign finance and other criminal conspiracy laws.

At the end of that letter, I mentioned that the State Department OIG had shared some information that might be related to the whistleblower complaint with the FBI. In my letter, I erroneously referred to that as a criminal referral. In fact, the State Department did not make a formal criminal referral. The State Department shared documents or referred documents that it had earlier received to the FBI's Criminal Division. And in the letter, I provided the name of the State Department's FBI contact as

[REDACTED]

1 part of my disclosure to the FBI and to the Criminal
2 Division.

3 As we know, the Acting DNI did not transmit my
4 determination or the complainant's information to the
5 committee on or before September 2nd, 2019, as the statute
6 appeared to require. The Acting DNI also did not alert the
7 committee to the fact of an urgent-concern filing.

8 After September 2nd, 2019, came and went with no notice
9 of the urgent-concern filing to the committees, I worked
10 closely with Mr. Klitenic and [REDACTED] to obtain direction
11 from the Acting DNI on how the complainant could contact the
12 committee directly if the Acting DNI did not intend to
13 transmit the materials to the committee himself.

14 On September 6th, 2019, I learned from Mr. Klitenic and
15 [REDACTED] that the Acting DNI had declined to provide such
16 direction. As a result, on September 9th, 2019, I wrote a
17 letter to the committee informing the committee of the
18 urgent-concern filing.

19 On September 17th, 2019, I submitted my response and
20 request that OLC reconsider its September 3rd, 2019, finding
21 that my office had no jurisdiction to investigate the matter.
22 We have provided a copy of that September 17th letter to the
23 committee.

24 Throughout this process, my team has kept the
25 whistleblower apprised of our actions to the extent possible.

[REDACTED]

[REDACTED]

1 In closing, let me say that, since I have had the honor
2 of becoming the Inspector General of the Intelligence
3 Community, I have made it a priority to enhance our
4 whistleblower program, just as I had promised I would do.
5 From the moment the IC IG received the whistleblower's
6 filing, the IC IG has worked to effectuate Congress's intent
7 and the whistleblower's intent, within the rule of law, and
8 to protect the whistleblower's right to remain anonymous at
9 this juncture.

10 Public servants in the executive branch are required to
11 bring concerns of waste, fraud, and abuse to the attention of
12 the appropriate authorities while using the lawful process
13 and protecting sources and methods. Although they must have
14 a reasonable basis for believing that their allegations are
15 well-founded, whistleblowers are not required to prove beyond
16 a reasonable doubt that a violation has occurred.

17 Whistleblowers are often the first people on the ground
18 to observe possible wrongdoing. When they bring their
19 concerns to us, they rely on us to protect their identity, to
20 protect them from harassment or worse, and to take the next
21 steps to either stop the wrongdoing or prevent it from
22 occurring again.

23 As far as I can tell, this whistleblower did the right
24 thing and brought his or her concerns to our attention. The
25 IC IG has also tried to do what is right. The IC IG will

[REDACTED]

[REDACTED]

1 continue its efforts on behalf of all whistleblowers in the
2 Intelligence Community, and I look forward to engaging with
3 all of you in that effort.

4 Thank you for allowing me to provide you with a summary
5 of our efforts. I apologize that I grossly underestimated
6 how long it would take, but I am happy to answer your
7 questions.

8 THE CHAIRMAN: Thank you, Inspector General, for your
9 professionalism. And that chronology was very helpful to us.

10 I'm going to turn it over to [REDACTED] to start the
11 questions.

12 I just had one clarification. You mentioned State
13 Department IG documents that you believe had been turned over
14 by the State Department IG to the FBI. Do you know -- and
15 you may or may not -- whether those are the same documents
16 that the State Department Inspector General recently conveyed
17 to several of the congressional committees under its own
18 urgent notice?

19 MR. ATKINSON: My understanding, from speaking to
20 Inspector General Linnick (ph), is that they are the same
21 materials.

22 THE CHAIRMAN: Do you know whether there are any
23 additional materials that were not transmitted as a part of
24 that?

25 MR. ATKINSON: I do not know that.

[REDACTED]

1 THE CHAIRMAN: [REDACTED].

2 [REDACTED]: Thank you, Mr. Chairman.

3 My name is [REDACTED] I'm the [REDACTED]

4 [REDACTED]. Thank you for coming today, Mr. Atkinson.

5 Since you were last here 2 weeks ago, as you indicated,
6 we now have in our possession several things that we did not
7 have then, including the complaint and the call record of the
8 July 25th call between President Trump and President
9 Zelensky.

10 We understand that the White House has abandoned
11 whatever protected privilege claim that they had placed on
12 you that prevented you on September 19th from relaying any
13 conversations or communications that you had with the White
14 House, so that will be one topic of conversation that we
15 address today.

16 But, first, I want to drill down a little bit on some of
17 your preliminary investigative steps that you very helpfully
18 just outlined. And I'll do my best not to rehash everything.

19 You said that the complainant spoke to two witnesses who
20 had firsthand knowledge of this call. Is that right?

21 MR. ATKINSON: Yes.

22 [REDACTED] I think you called them Witness One and
23 Witness Two?

24 MR. ATKINSON: Correct.

25 [REDACTED] All right. You interviewed, or your team

[REDACTED]

[REDACTED]

1 interviewed as part of your preliminary review Witness Two.
2 Is that correct?

3 MR. ATKINSON: Correct.

4 [REDACTED] Okay. Did you interview Witness One?

5 MR. ATKINSON: No.

6 [REDACTED] Why not?

7 MR. ATKINSON: I thought that the best source of the
8 information was someone who read a written record of the
9 call. I thought that someone's recollection of what they
10 heard on the call might not be as -- it's just different than
11 what someone reads from a record of the call.

12 And I also knew that, if there was a record of the call,
13 there would be a way later, when other investigators came
14 into play, to look at that written record and compare it to
15 what the person who read it recalled from it.

16 And once we talked to Witness Two, who confirmed that
17 there was a written record, who confirmed that it had been
18 put in a different compartmented system, and who corroborated
19 what the complainant had said, that, to me, was sufficient
20 evidence to make my determination that the complaint appeared
21 credible.

22 I was also very mindful that whoever cooperated in our
23 preliminary review would put themselves in harm's way because
24 of the sensitivity of the matter, and I was very cognizant
25 that I did not want to put any more people in harm's way than

[REDACTED]

1 necessary. So, once I understood what Witness Two had said,
2 I did not feel that it was necessary to my credibility
3 determination to interview Witness One.

4 [REDACTED] Did you think that there was a greater
5 likelihood of Witness One being placed in harm's way than
6 Witness Two? Was that part of your calculation as to why you
7 chose Witness Two?

8 MR. ATKINSON: No, I can't say that there was a greater
9 or lesser likelihood of someone's being placed in harm's way.
10 It was just a question of trying to minimize the number of
11 people put in harm's way.

12 [REDACTED] Okay.

13 MR. ATKINSON: Or potentially in harm's way.

14 [REDACTED] Understood.

15 You indicated in your opening statement that the
16 complainant provided to you a contemporaneous memorandum of a
17 conversation that the complainant had with someone with
18 firsthand knowledge of this call. Is that right?

19 MR. ATKINSON: Yes.

20 [REDACTED] And was that Witness One or Witness Two?

21 MR. ATKINSON: Witness One.

22 [REDACTED] Okay.

23 So if we could introduce this memorandum of
24 conversation, I think which is tab 2 of the majority binders.

25 You should have received this last night. Do you have

[REDACTED]

1 it?

2 MS. STEFANIK: Can you describe it?

3 [REDACTED] Yes. It's called "Memorandum of
4 Conversation," July 26, 2019. That's the title. It was
5 provided to us last night.

6 We'll mark this as exhibit 1.

7 [Atkinson Exhibit No. 1
8 was marked for identification.]

9 [REDACTED] Do you have that, Mr. Atkinson?

10 MR. ATKINSON: I do. I have it Bates-marked as -- do
11 you see at the bottom?

12 [REDACTED] Yes.

13 MR. ATKINSON: So it's HPSCI/SSCI 10/3/2019, and then
14 Response 02030.

15 [REDACTED] Yes.

16 MR. ATKINSON: Okay.

17 [REDACTED] Now, is this that contemporaneous
18 memorandum that you were referring to?

19 MR. ATKINSON: Yes. And, to be clear, this is a
20 memorandum that the complainant prepared after the
21 complainant spoke with Witness One.

22 [REDACTED]: And at the top of it, it says, "The
23 following is a record of conversation I had this afternoon
24 with a White House official about the telephone call
25 yesterday morning between President Trump and Ukrainian

[REDACTED]

1 President Volodymyr Zelensky."

2 So did you understand that this memorandum of
3 conversation just memorialized the conversation that the
4 complainant had with a firsthand witness the day after that
5 witness heard this phone call? Is that right?

6 MR. ATKINSON: Yes, that's my understanding.

7 [REDACTED]: All right. So you were in possession of
8 this memorandum of conversation from the complainant relaying
9 what Witness One had told the complainant the day after this
10 call. Is that right?

11 MR. ATKINSON: Yes. The complainant provided this
12 to our office as part of the disclosure.

13 [REDACTED] Okay. Did you compare the information
14 that you received from Witness Two to this memorandum as part
15 of your preliminary review?

16 MR. ATKINSON: After Witness Two was interviewed and the
17 interviewers described for me the substance of what Witness
18 Two had said, we did look to see how it aligned with the
19 statements provided by Witness One.

20 [REDACTED] And when you say "the statements," what
21 are you referring to?

22 MR. ATKINSON: I'm sorry. What the complainant had
23 reported Witness One had told to the complainant.

24 [REDACTED]: Okay.

25 And did you find that this memorandum, exhibit 1, of

1 conversation was consistent with what Witness Two had told
2 your team on August 21st?

3 MR. ATKINSON: It was -- it was -- the answer is yes.
4 It was consistent, particularly with regard to the
5 CrowdStrike servers, to the Biden family, and to the
6 Ukrainian prosecutor. You know, in terms of the allegation
7 that there was a solicitation of foreign assistance with
8 regard to CrowdStrike and the Biden family, that was
9 consistent, yes.

10 [REDACTED] Right.

11 Now, Mr. Atkinson, you were a Federal prosecutor for, I
12 believe, 16 years prior to taking this job. Is that right?

13 MR. ATKINSON: Yes.

14 [REDACTED] And as part of that job, as well as your
15 current job, can you describe the importance in corroborating
16 allegations of specific examples that may exist in multiple
17 places?

18 MR. ATKINSON: Well, it's -- in terms of trying to
19 determine what actually happened, when witnesses have
20 substantially similar recollections of events, it supports
21 those version of events. It certainly is -- if witnesses
22 have varying accounts of what happened on a telephone call,
23 for example, then it makes it really difficult to figure out
24 what, in fact, did happen. When witnesses' statements are
25 substantially similar, particularly on very significant

1 topics, then that makes a credibility determination -- it
2 just makes that credibility determination a little easier
3 because there's consistency.

4 [REDACTED] Right. Now, I mean, I'm only raising this
5 because you mentioned specifically CrowdStrike, the Bidens,
6 the prosecutor. Those are very particular examples that were
7 consistent across multiple recountings of an event. And I
8 was just asking you to educate the committee a little bit on
9 why that is particularly relevant, to have specific
10 consistent examples.

11 MR. ATKINSON: Well, let me put it this way. I did not
12 have -- I did not do word-for-word comparisons between what
13 Witness One reportedly said and what Witness Three said --
14 Witness Two said. I was looking to see, with regard to what
15 I viewed as the most serious or flagrant problem, abuse, or
16 violation of law, what the witnesses had to say about the
17 alleged solicitation of foreign assistance.

18 Both witnesses referenced the CrowdStrike server and the
19 Biden family and the Ukrainian prosecutor. There are other
20 consistencies -- and that is important, that there are other
21 consistencies -- with regard to the entire call.

22 But with regard to the matter that I was focused on,
23 both witnesses came away, the one who heard the call and the
24 one who read the transcript, understanding -- their
25 impression was that the President had solicited assistance

[REDACTED]

1 from a foreign government to help in a U.S. election, and
2 they specifically referenced CrowdStrike, the Biden family,
3 and the Ukrainian prosecutor.

4 [REDACTED] Did the fact that you had this
5 contemporaneous memorandum, entered as exhibit 1, from
6 Witness One influence your decision not to seek an interview
7 from Witness One?

8 MR. ATKINSON: It did. I mean, it's always helpful to
9 have a contemporaneous record of someone's recollection. I
10 will tell you, though, that there were several reasons we
11 didn't reach out to speak to Witness One.

12 Again, I wanted to limit the number of people who were
13 put in harm's way. Second, I thought I had -- I felt very
14 confident in my determination based on what the complainant
15 was saying and what Witness Two had said. And then, also, we
16 had information, as part of the preliminary review, that
17 Witness One was reluctant to get involved with our review.

18 [REDACTED] And where did you get that information
19 from?

20 MR. ATKINSON: The complainant.

21 [REDACTED] You also interviewed the complainant
22 twice. Is that right?

23 MR. ATKINSON: The investigative team interviewed the
24 complainant -- well, let me be clear. The investigative team
25 was in regular contact with the complainant about the steps

[REDACTED]

[REDACTED]

1 we were taking.

2 With regard to the substance of the complaint, the
3 complainant was interviewed by the interviewing team. And
4 then when I made the decision to reach out and try to
5 interview Witness Two, the interviewing team did reach back
6 out to the complainant to obtain the identity of Witness Two.

7 [REDACTED] And did the complainant indicate to you
8 that Witness Two would be willing speak with you?

9 MR. ATKINSON: That's in the -- you have that memorandum
10 of investigation. That's the best record of what the
11 complainant said at that time.

12 [REDACTED]: Okay. I won't ask you to remember
13 everything. I think we do have it in here somewhere, but
14 we'll get back to that in a second.

15 Just generally, when you met with the complainant and
16 interviewed the complainant, what was your assessment of his
17 or her demeanor and credibility?

18 MR. ATKINSON: So I did not personally participate in
19 the interview of the witnesses. What was reported back to me
20 was that the complainant came across as a very serious
21 professional and just someone who was used to, you know,
22 identifying facts and taking those facts and doing a thorough
23 analysis with them.

24 I also had, at the same time that -- around the same
25 time, at least the same day that the complainant was

[REDACTED]

[REDACTED]

1 interviewed. we had also interviewed the complainant's
2 supervisors. And what the supervisors had to say about the
3 complainant also went into my credibility determination.

4 [REDACTED] For what purpose did you interview the
5 complainant's supervisors?

6 MR. ATKINSON: Well, a number of purposes.

7 One was that the complainant told us that the
8 complainant had shared the disclosure with the two
9 supervisors, and the complainant authorized us to speak to
10 the supervisors about the disclosures. So one purpose was to
11 understand and determine their reaction, the supervisors'
12 reaction, to what they saw in the disclosure.

13 Another purpose was to verify as part of the statute
14 that the complainant was an individual, a detailee, or
15 contractor in the Intelligence Community.

16 Another purpose was to determine their sense of the
17 complainant's credibility and their sense of any bias that
18 the complainant might have and the supervisors' sense of the
19 complainant's subject-matter expertise with regard to the
20 information in the disclosure.

21 [REDACTED] Did the complainant explain to you why he
22 or she showed the complaint to these supervisors prior to
23 submitting it?

24 MR. ATKINSON: So that would be -- I don't have a
25 recollection. That would be in the memorandum of

[REDACTED]

1 investigative activity, if [REDACTED] explained that, or in the
2 letter that the complainant addressed to me, as the
3 Intelligence Community Inspector General, with [REDACTED] initial
4 submission. I just don't remember the answer to that
5 question.

6 [REDACTED] Let's tackle this issue of, quote, "bias,"
7 unquote. I believe you said in your opening statement, and
8 it appears in some of the documents that you sent last night,
9 that the complainant volunteered to you some potential
10 indicia of bias. Is that accurate?

11 MR. ATKINSON: I would say [REDACTED] self-disclosed it.

12 I directed the interviewers -- which was my practice as
13 a former prosecutor with all witnesses, is to ask the
14 witness, if someone wanted to argue that you as a witness had
15 a bias, what could they point to? So, basically, that was
16 the question I asked the interviewers to ask of the
17 complainant. If someone wanted to make a claim that you were
18 biased in any way, what could they point to? That's the
19 question that was -- I wasn't there, but that's the essence
20 of what I wanted the interviewers to ask.

21 And what my understanding is, what the complainant came
22 back with was the registered -- [REDACTED] registered with the
23 Democratic Party and that [REDACTED] had a prior professional
24 relationship with one of the Democratic Presidential
25 candidates for the 2020 election.

[REDACTED]

1 Now, to be clear, the complainant did not say that the
2 complainant was, in fact, biased. The complainant said,
3 well, if someone wanted to make that argument, here is what
4 they might point to. And that's why in my transmittal I
5 described it as indicia of an arguable political bias.

6 I did not find that the complainant was biased. What we
7 relied on was the self-disclosure of the complainant. But we
8 also checked with the supervisors to determine whether they
9 thought the complainant was biased, and both supervisors --
10 their view was that the complainant was not biased in any
11 way.

12 [REDACTED] So let's take this step by step.

13 In one of the documents -- and I apologize because we
14 got these late last night and are not as organized as we
15 might like to be, but --

16 THE CHAIRMAN: Could you hold on 1 second?

17 [Discussion off the record.]

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[REDACTED]

1 [11:41 a.m.]

2 [REDACTED] Just as a matter of housekeeping,
3 Mr. Atkinson, we understand that all of these documents that
4 you have provided to us to date are unclassified. Is that
5 right?

6 MR. ATKINSON: Yes.

7 [REDACTED] Okay. And all of the conversation that we
8 have had thus far and that you expect to have will be
9 unclassified. Is that accurate?

10 MR. ATKINSON: Yes.

11 [REDACTED]: Okay. If there is anything classified
12 that you are authorized to tell us, just let us know, and we
13 will -- we will figure out how to deal with that, but this is
14 an executive session, closed, unclassified briefing, as we
15 understand it.

16 We were discussing the issue of self-reported bias. And
17 in a document that you provided to us last night, which is
18 Bates stamped 27 -- and we will enter this interview of
19 complainant dated August 20 into the record as Exhibit 2.

20 [Atkinson Exhibit No. 2

21 Was marked for identification.]

22 [REDACTED], [REDACTED] On page 27 of that, there is a section
23 called "Potential for Bias", and there appear to be three
24 topics that the complainant mentioned could be used against
25 [REDACTED] to demonstrate political bias. The first says, first

[REDACTED]

1 "complainant worked closely with...", and then the remainder
2 is redacted; the second is entirely redacted; and the third
3 is that the complainant is a registered Democrat.

4 You've now said today that the complainant worked
5 closely with one of the presidential candidates for the 2020
6 election. Is that what is redacted in the first bullet point
7 here, or first --

8 MR. ATKINSON: Yes.

9 [REDACTED] Okay. And you are unable to tell us the
10 second. Is that right?

11 MR. ATKINSON: The second has to do with the
12 complainant's prior official duties and would -- could lead
13 to his identity.

14 I also didn't -- the reason I didn't include that in the
15 transmittal was I didn't find that whatever [REDACTED] self-disclosed
16 there as needing to be put in my transmittal to the Acting
17 DNI.

18 [REDACTED] Because you didn't find that it even would
19 amount to an indicia of arguable bias?

20 MR. ATKINSON: I thought that -- it's not that -- it
21 didn't -- what the complainant did as part of his
22 responsibilities, and the supervisors talk about this, is
23 that the reports that the complainant worked on were in line
24 with the views of the Intelligence Community. In other
25 words -- and the -- the reports that the complainant worked

[REDACTED]

[REDACTED]

1 on, the complainant wasn't taking a partisan view or a view
2 that wasn't the consensus of the Intelligence Community, and
3 so -- and I believe that what the complainant is talking
4 about there are some of the -- is some of the work that the
5 complainant did in [REDACTED] official capacity, that because of the
6 subject matter of the reports, could be seen as political,
7 but the complainant's role in those reports, as far as I
8 could tell, was not -- was not reflective of bias.

9 [REDACTED] Or of a political nature at all? I should
10 say of a partisan nature?

11 MR. ATKINSON: Correct.

12 [REDACTED]: Okay. So then you deemed there to be two
13 potential issues that may or may not reflect some degree of
14 political bias, the fact that he or she had previously worked
15 for a candidate and that is a registered Democrat?

16 MR. ATKINSON: Right. And just to be clear, I am not
17 saying that the other -- the information that's redacted is
18 irrelevant information. It is information that, as the
19 investigation goes on, it might be relevant information. And
20 I understood that that information would become available to
21 all -- to the investigators in what I will call phase 2 of
22 the investigation when other people got involved, but that
23 information I did not deem necessary to include in my
24 transmittal letter and it did not impact my credibility
25 determination.

[REDACTED]

1 [REDACTED] Okay. And one last question on this. I
2 just want to flesh it out.

3 Two of these things relate to the complainant's official
4 duties, right, and one is that he or she is registered with a
5 political party. Right? Is that correct?

6 MR. ATKINSON: That's correct.

7 [REDACTED] Is it your view that registering with a
8 particular political party demonstrates political bias?

9 MR. ATKINSON: I wouldn't say that it demonstrates
10 political bias. It might be relevant to trying to determine
11 whether a bias exists.

12 [REDACTED] Okay. But is it accurate that potentially
13 many, many people in the Intelligence Community or in law
14 enforcement are registered with a political party?

15 MR. ATKINSON: I would assume -- yeah. I don't have the
16 numbers, but I think that's a fair statement.

17 [REDACTED] And that's not something that ordinarily
18 is asked of any potential employees in either of those areas
19 of work. Is that right?

20 MR. ATKINSON: That's right.

21 [REDACTED] Now, you said part of the reason that you
22 interviewed the managers was to determine whether there was
23 any potential bias that these managers may have seen. Is
24 that right?

25 MR. ATKINSON: Correct.

[REDACTED]

1 [REDACTED] And can you just state again what those
2 managers concluded about potential bias?

3 MR. ATKINSON: So the best source of that are the
4 memorandum of those interviews for those two supervisors,
5 which we have provided, but the -- as far -- my recollection
6 is that those supervisors were of the opinion that the
7 complainant was not biased in any way.

8 [REDACTED]: Okay. Before I move to Witness Two, I
9 think Chairman Schiff had a couple more questions about
10 exhibit 1, the memorandum of conversation.

11 THE CHAIRMAN: Inspector, I want to ask you on the
12 second page of exhibit 1, the first bullet point in the
13 second section says, "The standard White House practice for
14 presidential level phone calls with world leaders is for the
15 White House Situation Room to produce a word-for-word
16 electronic transcription that memorializes the call. The
17 transcript is particularly then circulated to key White House
18 officials to be transformed into a formal memorandum that is
19 distributed."

20 Do you know whether the call record that has been
21 produced publicly is the memorandum or is the word-for-word
22 an electronic transcript?

23 MR. ATKINSON: I do not know the answer to that.

24 THE CHAIRMAN: Because it appears like a memorandum more
25 than an electronic transcript, does it not?

1 MR. ATKINSON: Well, I -- yes, I agree. I think it is
2 entitled "Memorandum", but -- that is my sense as well, that
3 it -- it is some memorandum of the call.

4 THE CHAIRMAN: Did you make an effort to find out
5 whether the electronic -- an electronic transcript exists
6 and, if so, whether that was being preserved?

7 MR. ATKINSON: During the 14-day period, I do not recall
8 whether we -- the investigators asked Witness Two about the
9 existence of an electronic transcript or whether the
10 complainant was asked the same information.

11 As part of my access and preservation requests that I
12 sent to the White House on August 26th, I did request access
13 to a preservation of all records, including electronic
14 records, of that telephone call.

15 THE CHAIRMAN: Did you come across any information
16 during your preliminary investigation as to whether there
17 exists any tapes or recordings of that call?

18 MR. ATKINSON: The evidence would be in the memorandums
19 of interviews that were done of the complainant and Witness
20 Two. That would be the best source of information about
21 whether we came across that information.

22 THE CHAIRMAN: So if you did, it would be in those
23 memoranda; otherwise, you wouldn't know whether -- know for
24 sure whether there is a recording?

25 MR. ATKINSON: Correct.

1 THE CHAIRMAN: Thank you.

2 [REDACTED] And I believe you stated in one of your
3 letters to us that you did not pursue any memorandum or
4 transcript of that July 25th call from the White House during
5 your 14-day preliminary inquiry. Is that right?

6 MR. ATKINSON: I did not communicate a request for those
7 records to the White House. When I met with the Acting DNI
8 on August 23rd, 2019, we discussed how important the
9 transcript or the record of the call would be, and I
10 explained to the Acting DNI that I had not yet requested
11 access to those records, that my time was just about up and I
12 thought it was highly unlikely that I could get access to
13 those records before my 14 days ended on August 26th.

14 And one of the reasons for that conversation was I knew
15 that the Acting DNI had 7 days to comment and I knew I was
16 going to request access to the records on August 26th, but I
17 also knew that the Acting DNI, if he wanted, could make his
18 own attempt to obtain access to those records of the call.

19 [REDACTED] Did the Acting DNI indicate that he would
20 do that?

21 MR. ATKINSON: I don't remember what -- I don't remember
22 what Admiral Maguire's response was to that.

23 I do know that after the transmittal on August 26th,
24 during that week of August 26th, during the 7-day period that
25 the Acting DNI had to comment, my office was in contact with

[REDACTED]

1 ODNI's general counsel, Jason Klitenic, about whether the
2 White House would give us access to the call records.

3 And at one point during that week, there was a
4 discussion about whether we, the ICIG, would be invited down
5 to the White House to review the call records, but that never
6 materialized.

7 [REDACTED] Do you know why?

8 MR. ATKINSON: I do not know why.

9 [REDACTED] Did you follow up on that request with the
10 ODNI?

11 MR. ATKINSON: We understood that the -- that we were
12 not going to be -- we were not going to have access to those
13 records.

14 [REDACTED] Well, did you understand that because the
15 White House said that you were not going to have access to
16 those records?

17 MR. ATKINSON: I believe that what happened was that the
18 Department of Justice OLC opinion was -- came fully into play
19 and -- but then it was determined that my office lacked
20 jurisdiction, and so the opportunity to review those records
21 just never materialized.

22 [REDACTED] When was the first time that you saw any
23 summary, memorandum, or transcript of the July 25th call?

24 MR. ATKINSON: Are you saying by the White House?

25 [REDACTED] Yes, from the White House.

[REDACTED]

1 MR. ATKINSON: When it was released publicly.

2 [REDACTED] Have you reviewed it?

3 MR. ATKINSON: Yes.

4 [REDACTED] Is it consistent with the -- in your view,
5 is it consistent with -- well, let me ask it this way. How
6 does that call record inform your assessment of the
7 credibility of the complaint?

8 MR. ATKINSON: I would say that I thought the
9 information appeared credible on August 26th, and I continue
10 to believe that the information appears credible after I've
11 read the transcript.

12 [REDACTED] Did you find the transcript to be
13 consistent with exhibit 1, the memorandum of conversation
14 from July 26th?

15 MR. ATKINSON: So those -- you know, those documents can
16 speak for themselves. People can do comparisons for them.

17 My issue was to determine, during those 14 calendar
18 days, whether the information appeared credible. And what I
19 will say is I determined that the information did appear
20 credible with respect to that call, and having read the
21 transcript, I continue to believe that the information
22 appeared credible with respect to the call.

23 [REDACTED] Did it increase your view of the
24 credibility of the complaint? I mean, you said earlier that
25 that call record itself would be the most critical and

[REDACTED]

1 important piece of evidence. Now that you've reviewed it
2 after your initial preliminary credibility determination,
3 what is your -- how does it influence your credibility
4 determination?

5 MR. ATKINSON: Well, it won't influence my credibility
6 determination, because what -- what I did, I did, and what
7 was done was done, and cannot be undone with regard to my
8 credibility determination.

9 [REDACTED] Understood. Sitting here today now
10 looking back, how does it inform your view of the credibility
11 of the whistleblower complaint?

12 MR. ATKINSON: I believe that witness 2's recollection
13 of the call -- of what the witness read in those call records
14 is consistent with what -- in large part with what was
15 disclosed by the White House in the official transcript.

16 I also believe that the complainant's contemporaneous
17 record of what the complainant understood Witness One had
18 said is also consistent in large part with what was in the
19 transcript.

20 [REDACTED] Witness Two described a removal of the
21 transcript from the normal JWIC (ph) system to a highly
22 classified code word system. Is that right?

23 MR. ATKINSON: Yes.

24 [REDACTED] And is it accurate here, it says Witness
25 Two --

[REDACTED]

1 So is this -- did we enter this one into the evidence?
2 I don't think we did. Let's do that. It is the interview of
3 Witness Two, which is -- we will do as Exhibit 3.

4 [Atkinson Exhibit No. 3
5 Was marked for identification.]

6 [REDACTED] I am looking at page 37 again. At the
7 bottom of the first paragraph, it says, "Witness Two saw the
8 transcript while it was going through the process."

9 Can you just describe what Witness Two explained about
10 the process that this transcript went through to go into the
11 code word and whether that was -- what the rationale was for
12 doing that?

13 MR. ATKINSON: I couldn't go beyond what's in this
14 memorandum of investigative activity.

15 [REDACTED] At the bottom of that page 37, there's a
16 quote that says, "I don't know why this is..." -- This is
17 from the Directorate of Intelligence, which maintains
18 day-to-day control over the NICE system, the code word
19 system, responded to an email stating, quote, "I don't know
20 why this is in the NICE system, because there is no code word
21 material." unquote.

22 So do you recall Witness Two expressing some concern
23 about the rationale for moving this into the code word
24 system?

25 MR. ATKINSON: Again, what Witness Two said is in

[REDACTED]

1 this -- the best record of that is in this memorandum of
2 investigative activity. And it does -- Witness Two did -- he
3 did -- Witness Two did have questions about why that was
4 done. It wasn't consistent with the usual process.

5 [REDACTED] And I believe you said in your -- you
6 didn't mention in your opening statement, but that Witness
7 Two described a lot of activity and closed-door meetings
8 shortly after this call. Do you recall that in this memo?

9 On page 37 in the middle of the second paragraph, it
10 says, "Witness Two was generally aware of the call because
11 there was a bunch of activity surrounding the call in the
12 days following, including closed-door meetings and whispered
13 conversations."

14 MR. ATKINSON: That is what the memo says, yes.

15 [REDACTED] Do you have an understanding as to who
16 would make the decision to move this document into the code
17 word system?

18 MR. ATKINSON: I do have an understanding of that. It
19 is not -- it might potentially be a privileged information,
20 so I am reluctant to answer that question.

21 [REDACTED] I am sorry. How would it be privileged
22 information? There is no privilege there.

23 MR. ATKINSON: Potentially attorney-client privilege. I
24 am not sure they have waived all attorney-client privileges.

25 [REDACTED]: I am not asking for the substance of any

[REDACTED]

1 conversations or communications. I am asking who would be
2 responsible for it? That wouldn't be under the
3 attorney-client privilege.

4 MR. ATKINSON: Oh, I am sorry. I thought you asked who
5 made the decision.

6 [REDACTED] Yeah. Well, that is -- yes. That is not
7 a communication or --

8 MR. ATKINSON: I am reluctant to answer that question.
9 First of all, I don't have firsthand knowledge of who made
10 the decision. It is -- and so I am reluctant to answer that
11 question.

12 [REDACTED]: Because you don't have firsthand knowledge
13 or because of a potential privilege claim?

14 MR. ATKINSON: A little bit of both, but mostly because
15 I don't know the answer who -- I don't know the White House
16 policy enough to know who normally made that decision or who
17 in fact made the decision here.

18 [REDACTED]: You also said in your opening statement
19 that the two managers who you interviewed reviewed the
20 complaint. What was their general assessment of whether they
21 believed that the complaint would be credible or not?

22 MR. ATKINSON: The best record of that are the -- is the
23 memos of those interviews, which we have produced.

24 [REDACTED] Do you recall? Can you summarize?

25 MR. ATKINSON: I am reluctant to summarize when we have

[REDACTED]

1 the memorandums in front of us. I am happy to look at the
2 memos and read from them.

3 [REDACTED] Well, let me ask it this way. Did any
4 aspect of your four interviews give -- well, I will put it
5 this way. Was it fairly consistent in your and your team's
6 view after the four interviews and reviewing the documents
7 that you obtained that the allegations appeared to be
8 consistent with one another, that there was -- is this a fair
9 summary that there was no indication of bias and that the
10 complainant was a reputable, highly respected Intelligence
11 Community official? Is that an accurate summary?

12 MR. ATKINSON: I would not -- I would not -- I would not
13 summarize it that way. I have tried to describe -- I have
14 tried to summarize my determination, and the best summary of
15 my determination is the letter that I transmitted to the
16 Acting DNI on August 26th.

17 [REDACTED] In which you found it to be a reasonable
18 likelihood of credibility?

19 MR. ATKINSON: I found that there was reason to believe
20 that the information with respect to the urgent concern
21 appeared credible, yes.

22 [REDACTED] Okay. I think my time is nearly up, but
23 at the beginning in your opening statement, you said that you
24 would turn over the identifies of the U.S. officials
25 referenced in your preliminary investigation if you could

[REDACTED]

1 receive some assurances from the committee.

2 What assurances do you need in order to provide those
3 identities to the committee?

4 MR. ATKINSON: I am not familiar with the committee's
5 rules. What I am familiar with is the grand jury process,
6 and there are secrecy obligations that a grand jury has to
7 follow in order to protect the privacy and the reputational
8 rights of individuals whose names come up during the course
9 of an investigation.

10 I would want to make sure that those reputational rights
11 for those individuals whose names were mentioned during our
12 preliminary review were protected. I want to make sure that
13 the process is fair to any individual whose name was
14 referenced during our preliminary review and which we did not
15 have an opportunity to corroborate.

16 THE CHAIRMAN: Inspector, our time has expired. Before
17 we turn it over to the minority for questions, I just want to
18 suggest that we will work with you to figure out what is the
19 best manner, what is the best process to make sure that we do
20 protect these witnesses.

21 It concerns me that you felt reluctant to interview a
22 witness already because you feared that witness could be put
23 in harm's way. None of these people should be put in harm's
24 way. There are all too many reasons why they might feel that
25 they would be in harm's way at the moment, but we will work

1 with you as well as with the acting director.

2 I think many of the same precautions that we will need
3 to take with respect to the whistleblower, we may need to
4 take with respect to these witnesses. And those may be
5 extraordinary procedures, but they may very well be warranted
6 in these extraordinary circumstances, so we will work with
7 both you and the acting director to try to make that
8 possible.

9 With that, I turn it over to the minority.

10 MR. NUNES: I thank the gentleman.

11 I just want to get a few housekeeping items on the
12 record here.

13 So these documents here are documents that your office
14 provided to the committee, including what the majority calls
15 exhibit 1. You provided these when?

16 MR. ATKINSON: Last night.

17 MR. NUNES: Okay. Was there a reason why you provided
18 these last night?

19 MR. ATKINSON: That is when they were ready.

20 MR. NUNES: At any time, did anyone else get these
21 documents, or were these discussed with anybody from this
22 committee?

23 MR. ATKINSON: The documents that I have produced?

24 MR. NUNES: The documents that you produced at 9 o'clock
25 last night.

[REDACTED]

1 MR. ATKINSON: So I am going to be responsive to your
2 question. Some of the documents have already been made
3 available to the committee through the declassification
4 process. For example, the complainant's letter and
5 classified information was re-marked a couple weeks ago and
6 made available to the committee.

7 In terms of the information that the complainant
8 provided with regard to disclosure of Urgent Concern form,
9 the letter to the Intelligence Community Inspector General,
10 the initial email to the ICIG hotline. None of those records
11 have been provided to anyone outside of my office until last
12 night.

13 MR. NUNES: Okay. So exhibit 1, when did people get --
14 when was that provided to the committee?

15 MR. ATKINSON: Which one is exhibit 1?

16 [REDACTED] The July 26th memorandum of conversation.

17 MR. ATKINSON: That was provided last night.

18 MR. NUNES: At 9:07?

19 MR. ATKINSON: I am not sure of the exact time.

20 MR. NUNES: At any time did you discuss this with
21 anybody -- that memorandum with anybody from this committee
22 before you sent it to us?

23 MR. ATKINSON: I am hesitating, because the substance of
24 the memo plays into my August 26th letter to the Acting DNI
25 in terms of how I -- why I determined the information to be

[REDACTED]

1 credible. But in terms of that memo itself, no, I did not
2 discuss that memo with anyone on the committee.

3 MR. NUNES: Or your staff? Did your staff discuss it
4 with people on this committee?

5 MR. ATKINSON: As far as I know, my staff did not
6 discuss the contents of that memo with anyone on this
7 committee.

8 MR. NUNES: You can understand why we would be a bit
9 frustrated that we get this at 9:07 last night and you're
10 coming in the next morning? Is that -- I just find it hard
11 to believe. None of this information was available before
12 9:07 last night?

13 MR. ATKINSON: It definitely existed before last night.
14 I don't remember when the committee requested the materials.
15 It took some period of time to gather the materials and then
16 to redact out the personal information, the identifying
17 information, and the information that had not been
18 corroborated and to make sure that we got that information
19 right. So it took quite a bit of time to gather the
20 information and then to make sure that the redactions were
21 correct and accurate.

22 MR. NUNES: Well, you can understand how -- you know, we
23 have barely had an opportunity to go through this, and so,
24 you know, I don't know how we can even -- there's probably
25 questions we're going to have for you.

1 So are you going to come back and take questions from
2 the minority on this document dump that occurred last night?
3 Or is this your last time coming before the committee?

4 MR. ATKINSON: Well, I leave that --

5 MR. NUNES: And, if so, how do we get you those
6 questions?

7 MR. ATKINSON: I leave that to the committee. I will --
8 my office will cooperate with this committee's investigation.

9 MR. NUNES: Okay. But, you can understand how we
10 haven't even had time to go through this hardly to even be
11 prepared to ask you questions about these documents?

12 MR. ATKINSON: I understand what you're saying.

13 MR. NUNES: Okay. Do you have any concern with that?

14 MR. ATKINSON: I would -- I think to the extent that we
15 produced them late, which we did, we inconvenienced everyone
16 on the committee, but I will say we did our best to produce
17 them as quickly and as accurately as we could.

18 MR. NUNES: Okay. I want to go back to the -- now I
19 want to go back to the timeline, because it is a little
20 unclear to me from your opening statement.

21 The IG -- you get this on the 12th, the 14-day period
22 begins. Who identified the four witnesses, you or the
23 complainant?

24 MR. ATKINSON: The complainant was one of the four
25 witnesses. So we --

1 MR. NUNES: But you identified the -- these four
2 witnesses are people you identified or the complainant
3 identified?

4 MR. ATKINSON: So I am going to answer the question.

5 The four witnesses were the complainant, whose identity
6 we knew from the filing of the urgent concern. In the
7 complainant's information, the complainant identified two of
8 the complainant's supervisors, who knew about the
9 complainant's disclosure. And then during the course of the
10 preliminary review, the complainant identified the individual
11 who read the transcript after the call had taken place,
12 Witness Two.

13 MR. NUNES: Okay. So there are four witnesses. There's
14 the complainant plus four witnesses.

15 MR. ATKINSON: No. There are -- I am sorry. There are
16 the complainant plus three witnesses who we interviewed.

17 MR. NUNES: You interviewed three witnesses?

18 MR. ATKINSON: I am going to include the complainant in
19 the witnesses we interviewed. So there are four individuals
20 we interviewed.

21 MR. NUNES: Okay. So witness number 1, you said,
22 listened to the call?

23 MR. ATKINSON: We did not interview witness number 1.

24 MR. NUNES: Okay. Witness number 2 you did interview,
25 and that is where exhibit 1 comes from?

1 MR. ATKINSON: It is confusing. Exhibit 1, which is the
2 memo of the call, correct?

3 [REDACTED] Yes.

4 MR. ATKINSON: The complainant prepared exhibit 1 after
5 the complainant spoke to Witness One.

6 MR. NUNES: Okay. All right. And witness 3 is who, is
7 a supervisor?

8 MR. ATKINSON: I don't -- we can refer to witnesses 3
9 and 4 as the two supervisors if that is helpful.

10 MR. NUNES: Okay. Well, I am -- that is what I am
11 trying to clarify here. Okay? I am not trying -- there are
12 no trick questions here.

13 Witness One is the person who listened to the call,
14 Witness Two is the person you interviewed and wrote this
15 exhibit 1.

16 MR. ATKINSON: Just -- I am sorry, Congressman. The
17 complainant wrote exhibit 1 after the complainant spoke to
18 Witness One.

19 MR. NUNES: To Witness One or Two?

20 MR. ATKINSON: Can I have a copy of the exhibits,
21 please?

22 [REDACTED] Yes, of course.

23 MR. ATKINSON: The memorandum of conversation,
24 exhibit 1, was written by the complainant after the
25 complainant spoke to Witness One.

1 MR. NUNES: Okay. And then who is -- and then Witness
2 Two is who?

3 MR. ATKINSON: The individual who read the transcript of
4 the call after the call took place.

5 MR. NUNES: Okay. But there are no documents from
6 Witness Two?

7 MR. ATKINSON: Correct.

8 MR. NUNES: That is just somebody that you spoke to?

9 MR. ATKINSON: That the investigators spoke to, my
10 investigative team spoke to.

11 MR. NUNES: Your investigative team spoke to Witness
12 Two. Okay. And Witness Two is someone who works with
13 Witness One? Well, is it the same -- is that who that is? I
14 am trying to figure out who -- how does Witness Two read a
15 transcript and, if so, what transcript? Was it the
16 transcript that was declassified?

17 MR. ATKINSON: Witness Two had authorized access to the
18 White House and to the White House records as part of
19 witness 2's official duties.

20 MR. NUNES: Okay. So Witness Two read the transcript
21 that has now been declassified?

22 MR. ATKINSON: I do not know what written record Witness
23 Two read. I don't know if Witness Two read the same
24 transcript that was -- or same memorandum that was
25 declassified by the White House.

1 MR. NUNES: Okay. So exhibit 1 was written by --
2 exhibit 1 for today's briefing was written by the
3 complainant?

4 MR. ATKINSON: Correct.

5 MR. NUNES: Based on a call [REDACTED] had with Witness One, who
6 has not been interviewed?

7 MR. ATKINSON: I believe it was an in-person
8 conversation between the complainant and Witness One.

9 MR. NUNES: Okay. And then Three and Four are
10 identified -- I want to get back to -- I understand the
11 complainant identified Witness One. Who identified Witness
12 Two, Three, and Four?

13 MR. ATKINSON: To be clear, the complainant identified
14 Witness One, the complainant identified Witness Two, and in
15 the complainant's initial disclosure, the complainant
16 identified the two supervisors.

17 MR. NUNES: Okay. And then you went -- your team went
18 out to interview -- you interviewed three of -- you have
19 interviewed Two, Three, and Four.

20 MR. ATKINSON: The investigators interviewed Two, Three,
21 and Four, correct.

22 MR. NUNES: Two, Three, and Four. Okay. Got that. And
23 this was all done between the 12th, August 12th, and 20th?

24 MR. ATKINSON: August 12th. And I believe Witness Two
25 was interviewed on August 21st.

1 MR. NUNES: All right. We will have more questions
2 later, but I want to turn it over to Mr. Ratcliffe.

3 MR. RATCLIFFE: Good to see you again.

4 All right. So your first contact with the whistleblower
5 was through the hotline. That is the same date as the actual
6 date of the complaint, August the 12th, correct?

7 MR. ATKINSON: That was my office's first contact,
8 correct.

9 MR. RATCLIFFE: Okay. So I want to focus on the 18 days
10 before that. There are 18 days between the July 25th phone
11 call in question that is the subject of the whistleblower's
12 complaint between President Trump and President Zelensky and
13 the actual August 12th first contact with your office.

14 During that 18 days, when did the whistleblower first
15 have contact with members of the House Permanent Select
16 Committee on Intelligence, the majority members or staff?

17 MR. ATKINSON: I do not know the answer to that.

18 MR. RATCLIFFE: How many times did -- I am going to
19 refer to that as HPSCI from now on for convenience of the
20 court reporter and you.

21 How many times did the whistleblower meet with HPSCI
22 staff members?

23 MR. ATKINSON: I do not know the answer to that.

24 MR. RATCLIFFE: Do you know whether they did?

25 MR. ATKINSON: Whether the HPSCI staff members met with

1 the complainant before August 12th?

2 MR. RATCLIFFE: Yes.

3 MR. ATKINSON: I do not know the answer to that.

4 MR. RATCLIFFE: Your investigative team didn't determine
5 that?

6 MR. ATKINSON: Correct.

7 MR. RATCLIFFE: Your investigative team didn't ask the
8 number of times the complainant met with members of HPSCI
9 before filing a complaint?

10 MR. ATKINSON: On the urgent disclosure form, there's a
11 question that the complainant is asked about who they have
12 reported the violation to, and one of the boxes is the
13 congressional intelligence committees. The complainant did
14 not check that box.

15 MR. RATCLIFFE: So the fact that the public is now aware
16 through reporting, and that has been confirmed by the
17 chairman of this committee, that there was contact between
18 the complainant and either members or staff of HPSCI, the
19 whistleblower was not the person that disclosed that fact?

20 MR. ATKINSON: Can you clarify that question?

21 MR. RATCLIFFE: The whistleblower did not disclose to
22 you that he or she had contact with HPSCI?

23 MR. ATKINSON: The answer to that is yes. The answer to
24 that is yes. In fairness to --

25 MR. RATCLIFFE: The answer to that is "yes" that the

1 whistleblower did not notify you?

2 MR. ATKINSON: Did not notify me. In fairness to the
3 investigators, they did ask the complainant who else knew
4 about the disclosure. And in the memorandum of investigative
5 activity, there is no reference to anyone in Congress being
6 aware of the disclosure.

7 MR. RATCLIFFE: So as you sit here today as the
8 Intelligence Community Inspector General, you do not have
9 personal knowledge nor does your investigative team have
10 knowledge or information about the number of times the
11 whistleblower had contact with the HPSCI majority staff or
12 members?

13 MR. ATKINSON: Correct.

14 MR. RATCLIFFE: And you do not have any personal
15 information, either you or your investigative team, of the
16 number of times those contacts may have occurred prior to the
17 filing of the whistleblower complaint?

18 MR. ATKINSON: That is correct.

19 MR. RATCLIFFE: You do not have personal information
20 about where those contacts or meetings may have taken place?

21 MR. ATKINSON: That is correct.

22 MR. RATCLIFFE: You do not have information about how
23 many meetings may have taken place or how long those meetings
24 may have lasted?

25 MR. ATKINSON: Just so -- your time period is, again,

1 before August 12th?

2 MR. RATCLIFFE: Yes.

3 MR. ATKINSON: Correct. And I am not saying the answer
4 would change after August 12th. I just want to be clear what
5 time period we are talking about.

6 MR. RATCLIFFE: So you, again, have no information about
7 what individual members of the HPSCI majority, either members
8 or staff, or aides, met with the whistleblower?

9 MR. ATKINSON: Correct.

10 MR. RATCLIFFE: You do not know their identities?

11 MR. ATKINSON: Of the staff?

12 MR. RATCLIFFE: Or members.

13 MR. ATKINSON: Correct.

14 MR. RATCLIFFE: You don't know any details about any of
15 those contacts?

16 MR. ATKINSON: That is correct.

17 MR. RATCLIFFE: What fact witnesses other than those
18 HPSCI members, or staff members, or the whistleblower would
19 be able to provide us with that information?

20 MR. ATKINSON: I am sorry, Congressman. Could you just
21 ask that one more time?

22 MR. RATCLIFFE: I am trying to identify, since you and
23 your investigative team don't have facts about those details,
24 I am trying to figure out what fact witnesses exist other
25 than the HPSCI members themselves, the HPSCI staff members,

1 or the whistleblower that could provide us with that
2 information.

3 MR. ATKINSON: Sitting here right now, I can't think of
4 anyone else.

5 MR. RATCLIFFE: Wouldn't that be important information
6 in trying to determine whether or not a whistleblower was
7 properly motivated or politically motivated?

8 MR. ATKINSON: There is -- we have on our initial form
9 that we provide to whistleblowers the question about who they
10 reported or are going to report the violation to. That is
11 relevant information to us to understand whether the alleged
12 violation has already been reported to Congress, whether it
13 has been reported in an authorized way.

14 So that is a relevant -- there is a reason we ask that
15 question of any whistleblower who wants to make a disclosure
16 with respect to an urgent concern.

17 MR. RATCLIFFE: I understand that. Just so you are
18 clear where I am going with this, Inspector, we have been
19 told by the Speaker of the House that the House Permanent
20 Select Committee on Intelligence is running this
21 investigation.

22 I am trying to determine how someone can be a material
23 fact witness in that investigation and run that investigation
24 at the same time.

25 I am asking you, as the person that investigated this

1 matter, what material facts you are aware of that members of
2 HPSCI or the staff had as it related to this whistleblower
3 complaint, and you are telling me that you don't have any of
4 that information?

5 MR. ATKINSON: That is correct.

6 MR. RATCLIFFE: So I am trying to figure out how I can
7 get that information other than to put the chairman, members
8 of the HPSCI committee, and staff members under oath to find
9 out the details of their contact with the whistleblower. How
10 else could I do it other than to do that?

11 MR. ATKINSON: I am not sure it is my role to give you
12 advice on how to solve that problem. I think you have
13 identified the people who have firsthand information about
14 that.

15 MR. RATCLIFFE: Fair enough. Fair enough. But what you
16 are telling me is that there are no other people other than
17 the ones I have mentioned?

18 MR. ATKINSON: So I don't know the answer to that. I
19 think you have mentioned the people who would, you know,
20 naturally come to mind.

21 MR. RATCLIFFE: So you don't know -- again, to drill
22 down on this further, since you don't know who the members
23 are or the staff members are, you don't know how long the
24 meetings were, how many there were, what the contact was.

25 Can you tell me under oath whether or not members of the

1 HPSCI majority referred the whistleblower to the lawyer or
2 lawyers representing the whistleblower?

3 MR. ATKINSON: I don't have any firsthand information
4 about whether the HPSCI staff or members referred the
5 complainant to a lawyer.

6 MR. RATCLIFFE: And because you don't know that, you
7 don't know whether there is any relationship between the
8 whistleblower lawyers and members of the HPSCI staff?

9 MR. ATKINSON: That is correct. In terms of -- just to
10 clarify one of your earlier questions in terms of who else
11 might know whether the HPSCI members or HPSCI staff have been
12 contacted, I would include the lawyers in that pool of people
13 who might have that information.

14 MR. RATCLIFFE: Okay. So one of the things that has
15 been reported is that the whistleblower reached out to the
16 HPSCI staff because they weren't satisfied with how the
17 whistleblower process was proceeding with the CIA's counsel.

18 Are you aware of those facts?

19 MR. ATKINSON: I have no personal knowledge about the
20 whistleblower contacting HPSCI members or staff.

21 MR. RATCLIFFE: So you don't know -- if the
22 whistleblower contacted HPSCI staff as early as July 26th or
23 July 27th, a day or 2 days after the phone call itself, then
24 the whistleblower wouldn't have had -- allowed any time for
25 the whistleblower process to play out with the CIA counsel,

1 correct?

2 MR. ATKINSON: I am not going to comment on any
3 elements -- Intelligence Community elements of general
4 counsel, because I don't want to contribute to the
5 identification of the whistleblower.

6 I don't know that it is fair to say that when a
7 whistleblower contacts an oversight committee about the
8 process, just the process for filing a complaint, that the
9 whistleblower has effectively shortcuted the whistleblowing
10 system.

11 MR. RATCLIFFE: Right. And I am -- so that the record
12 is clear, I am just asking you about a lot of the public
13 reporting that is out there, and that public reporting is
14 that the whistleblower came to this committee, the majority
15 staff of this committee, because they were frustrated that
16 the process wasn't playing out through the agency through
17 which they worked or were detailed.

18 But the timing of when they came to the committee would
19 bear on the credibility of the whistleblower on whether or
20 not they were being truthful with regard to that statement.

21 MR. ATKINSON: So one of my obligations is not only to
22 be independent of the agencies and departments I oversee, but
23 also to be independent from Congress, so if I could just push
24 back on that a little bit.

25 Whistleblowers are encouraged to speak to the

1 appropriate authorities with regard to their concerns about
2 unethical, illegal, or immoral behavior. Many times,
3 whistleblowers don't find those initial discussions to be
4 satisfactory, and so they look for other avenues.

5 And we encourage whistleblowers to -- there are other
6 avenues. One avenue is inspectors general. Another avenue
7 are the congressional oversight committees. And we encourage
8 whistleblowers to understand their rights. We also encourage
9 them not to disclose classified information without
10 authorization.

11 So I would not hold it against a whistleblower -- I have
12 no personal knowledge about what this whistleblower did with
13 the HPSCI staff or HPSCI members. As I said, I have no
14 personal knowledge of that.

15 But in fairness to whistleblowers, those who come to the
16 HPSCI staff to understand the process and the other avenues
17 available, I don't think it is fair to say that that is -- I
18 don't know that it is fair to criticize just trying to
19 understand the process and other avenues available.

20 MR. RATCLIFFE: I appreciate that. And I am not
21 criticizing anyone. I am just trying to determine -- when
22 you are the one that identifies that there is an arguable
23 political bias, I am trying to determine whether or not there
24 is that bias. And one of the factors I would want to know is
25 how quickly did they come to the Democratic staff of the

1 party of which they are registered. And if it is within a
2 matter of minutes or days of becoming aware of this
3 information, that might factor in to my decision, if I were
4 in your position, as to whether or not this person was
5 politically motivated.

6 I am asking you, and you have made it very clear that
7 you have no personal knowledge about the whistleblower
8 contacts with this committee and that the whistleblower did
9 not volunteer any of that information to you or your
10 interview team. Correct?

11 MR. ATKINSON: The whistleblower was given a Disclosure
12 of Urgent Concern form and was asked to report on there who
13 they had reported the violation to, and the whistleblower
14 identified the whistleblower's Intelligence Community
15 contacts in terms of who the whistleblower had reported the
16 violation to. The whistleblower did not check the box for
17 congressional intelligence committees.

18 Our investigators also asked the complainant who knew
19 about the complainant's disclosure. The complainant did
20 not identify the congressional intelligence committees.

21 MR. RATCLIFFE: Okay. So then let me turn to the
22 28 days following your receipt of the complaint on
23 August 12th until the time that you notified Congress on
24 September 9th.

25 Your first notification to Members of Congress was your

1 September 9th letter, correct?

2 MR. ATKINSON: Correct.

3 MR. RATCLIFFE: Okay. So when the chairman of this
4 committee tweeted out on August 23rd that -- in speaking
5 about the Ukraine specifically, and tweeted, "Yet again..."

6 -- I am quoting: "Yet again Trump's campaign wants foreign
7 help to win an election. Giuliani is Trump's personal lawyer
8 acting on his behalf in his campaign's interest. Their goal
9 is the same as 2016: get dirt on a political opponent, but
10 this time they can't plead ignorance of the law."

11 Is that information that would have come from the ICIG
12 to Chairman Schiff?

13 MR. ATKINSON: No.

14 MR. RATCLIFFE: So as you sit here, if the information
15 didn't come from the ICIG, would you agree with me that there
16 are matters contained in that tweet from the chairman that
17 had not yet been identified by you to Congress as of that
18 date that relate to the whistleblower's complaint?

19 MR. ATKINSON: I am trying to -- I think -- I think the
20 answer is yes. I am just trying to understand exactly
21 what your question is.

22 MR. RATCLIFFE: There are matters in that tweet that
23 relate to --

24 [REDACTED] Do you have another copy of the --

25 MR. RATCLIFFE: -- the whistleblower's complaint.

1 That is my only copy and I would be happy to mark it as
2 an exhibit.

3 MR. NUNES: Exhibit -- what number are we on?

4 [REDACTED] 4.

5 [Atkinson Exhibit No. 4

6 Was marked for identification.]

7 MR. RATCLIFFE: So are there matters in there that in
8 the chairman's tweet that relate to the whistleblower's
9 complaint, the allegations of the whistleblower's complaint?

10 THE CHAIRMAN: I would like to just interject, because I
11 think it is a bit misleading to the witness.

12 The tweet references a New York Times article that sets
13 out those facts. So I think you should let the witness know
14 that

15 MR. RATCLIFFE: The witness can answer however. I am
16 just asking if the tweet --

17 [REDACTED] Can you produce the New York Times article
18 as well to the witness?

19 MR. RATCLIFFE: I am just asking if the tweet itself has
20 reference to the whistleblower's -- issues in the
21 whistleblower's complaint, matters that are in the
22 whistleblower's complaint.

23 MR. ATKINSON: So I don't --

24 MR. RATCLIFFE: The subject matter of that, is that the
25 same subject matter of the whistleblower's complaint, getting

1 political dirt on an opponent, trying to influence an
2 election?

3 MR. ATKINSON: This is the first time I have seen this
4 tweet.

5 MR. RATCLIFFE: Okay.

6 MR. ATKINSON: I don't remember reading the New York
7 Times article.

8 MR. RATCLIFFE: I --

9 MR. ATKINSON: And I am just trying to answer the
10 question.

11 MR. RATCLIFFE: Okay.

12 MR. ATKINSON: The subject matter of the New York Times
13 article or the tweet is related to information that was
14 disclosed by the complainant, but it is also related to what
15 happened on that July 25th, 2019, call, which was heard, as
16 we know, by many individuals.

17 MR. RATCLIFFE: Fair enough.

18 MR. ATKINSON: Right.

19 MR. RATCLIFFE: My point is, you hadn't communicated any
20 of that information to Congress as of that date.

21 MR. ATKINSON: That is correct.

22 MR. RATCLIFFE: So my question is, do you know whether
23 or not the chairman could have gotten that information from
24 the whistleblower?

25 MR. ATKINSON: I do not know.

1 MR. RATCLIFFE: One way or the other?

2 MR. ATKINSON: One way or the other.

3 MR. RATCLIFFE: Okay. Fair enough.

4 That tweet, dated August 23rd, is, if I am correct,
5 3 days before you first sent a letter to the Acting DNI
6 notifying them about the urgent concern?

7 MR. ATKINSON: August 23rd was 3 days before I sent my
8 notice to the Acting DNI, yes.

9 MR. RATCLIFFE: So even before the Acting DNI has been
10 notified about the whistleblower's complaint, the chairman of
11 this committee tweeted about the same subject matter?

12 MR. ATKINSON: Well, in fairness to me and in fairness
13 to the Acting DNI, we both knew as of August 23rd about the
14 subject matter of the complainant's disclosure, because on
15 August 23rd, I gave the Acting DNI a copy of the
16 complainant's disclosure and the classified appendix. So the
17 Acting DNI did know as of August 23rd about that information.

18 MR. RATCLIFFE: But, again, Congress had not been
19 notified --

20 MR. ATKINSON: But I just -- I just want to be clear. I
21 am not suggesting that the Acting DNI was the source in any
22 way for The New York Times article. I am just making it
23 clear that the Acting DNI did have that information as of
24 August 23rd.

25 MR. RATCLIFFE: Okay. On August 28th, the chairman of

[REDACTED]

1 this committee tweeted: "Trump is withholding vital military
2 aid to the Ukraine while his personal lawyer seeks help from
3 the Ukraine government to investigate his political
4 opponent."

5 Would you agree with me that that is essentially the sum
6 and substance of the whistleblower's complaint?

7 [REDACTED] Do we have an extra copy?

8 MR. NUNES: Is this Exhibit 5?

9 MR. RATCLIFFE: Yeah. Let's mark that as whatever the
10 next sequenced exhibit is.

11 [Atkinson Exhibit No. 5

12 Was marked for identification.]

13 MR. ATKINSON: No, I respectfully don't agree that that
14 is the sum and substance of the whistleblower's complaint.

15 MR. RATCLIFFE: Okay. Let me see. That is my only
16 copy.

17 Does the whistleblower complaint include an allegation
18 that Trump was withholding vital military aid to the Ukraine
19 while his personal lawyer was seeking help from the Ukraine
20 to investigate a political opponent?

21 MR. ATKINSON: The best source of that information is
22 the complainant's letter and classified appendix.

23 My recollection is what the complainant alleged in the
24 letter, and more specifically in the classified appendix, was
25 that there might be a connection between the suspension of

[REDACTED]

[REDACTED]

1 the military aid and President Trump's alleged efforts to
2 solicit assistance from the Ukrainian leader.

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[REDACTED]

[REDACTED]

1 [12:41 p.m.]

2 MR. RATCLIFFE: Okay. So, but let's keep it simple.
3 These are subject matters that are in the whistleblower's
4 complaint.

5 MR. ATKINSON: It is --

6 THE CHAIRMAN: Again to my colleague, in fairness to the
7 witness, the tweet you're referencing references -- appends a
8 newspaper article, and I think it misleading to the witness
9 for you not to disclose that, that what that tweet refers to
10 is a public report.

11 MR. RATCLIFFE: Well, you've made the record clear.
12 People will read the transcript for what it is. I'm just
13 trying to figure out how this information got out there when
14 the Inspector General hasn't notified Congress about the
15 details of the whistleblower's complaint, and I'm trying to
16 determine whether or not the whistleblower could have been
17 the source of that information.

18 MR. ATKINSON: I have no personal knowledge of that. I
19 will say, again, that the call on July 25th, as we now know,
20 was the subject of -- apparently the subject of quite a bit
21 of controversy within the White House. And there were a
22 number of people who heard the call, or who had access to the
23 transcript or record of the call after the call.

24 MR. RATCLIFFE: The date of your actual notification to
25 Congress was September 9, correct?

[REDACTED]

1 MR. ATKINSON: Correct.

2 MR. RATCLIFFE: On September 17th, you wrote a letter to
3 Chairman Schiff and Ranking Member Nunes explaining where
4 things were in the process, and on page 2 -- I'm going to
5 read from your letter.

6 THE CHAIRMAN: What is the date of the letter?

7 MR. RATCLIFFE: September 17th. You said, "I have
8 requested authorization from the Acting DNI to disclose, at
9 the very least, the general subject matter of the
10 complainant's allegations to the congressional intelligence
11 committees. To date, however, I have not been authorized to
12 disclose even that basic information to you, in addition to
13 the important information provided by the complainant that is
14 also being kept from the congressional intelligence
15 committees."

16 Did I read that accurately?

17 MR. ATKINSON: I believe so, yes.

18 MR. RATCLIFFE: Okay. Did you know at the time that you
19 were writing that that Chairman Schiff already had that basic
20 information?

21 MR. ATKINSON: I have no personal knowledge that
22 Chairman Schiff or anyone else had that basic information.

23 MR. RATCLIFFE: But you now know that he did?

24 MR. ATKINSON: I do not know. I do not know. I have no
25 personal knowledge about what information Chairman Schiff

1 had.

2 MR. RATCLIFFE: Which makes him a fact witness, right?
3 Where else can I get that information if you, as the
4 Inspector General, don't have that information? How can I
5 get that information other than to ask Chairman Schiff or
6 members of the HPSCI majority under oath about what they knew
7 and when they knew it?

8 MR. ATKINSON: Respectfully, Congressman, I just don't
9 think it's my role to, you know, give you direction or advice
10 on how to achieve that.

11 MR. RATCLIFFE: I understand that. I'm just trying to
12 rule out where I can go to get that information. I was
13 hoping that perhaps your investigative team would be able to
14 provide that information but, as you've made very clear,
15 there was no inquiry to the HPSCI majority staff or members
16 about their contacts with the complainant.

17 That's the only point that I'm trying to underscore,
18 because I believe it demonstrates very clearly that the
19 person or persons designated by the Speaker of the House to
20 run an investigation is one of the key and material fact
21 witnesses in that investigation.

22 When we met before, it was September 19, members on this
23 side of the aisle, Republican members of HPSCI, were trying
24 to get you to answer even basic questions about the
25 underlying facts, whether or not there was a phone call,

1 whether or not it involved members, foreign leaders. You
2 were, as of that date, unwilling or unable at that point to
3 share even that basic information, correct?

4 MR. ATKINSON: In terms of that basic information, I was
5 unable to share that information.

6 MR. RATCLIFFE: Yet, as we've covered, on numerous
7 dates, August 23rd tweet, August 28th tweet, even as late as
8 September 9th, members of the HPSCI majority had that basic
9 information.

10 MR. ATKINSON: I have no personal knowledge of that.

11 MR. RATCLIFFE: So when this committee on September 9 --
12 you notified this committee of the complaint on September 9,
13 correct?

14 MR. ATKINSON: Of the fact of the filing of an urgent
15 concern, yes.

16 MR. RATCLIFFE: Okay. And on that same date, that was
17 the date that the chairman announced a full-fledged
18 investigation into the Trump-Ukraine matter.

19 Did you provide any information other than your first
20 contact letter of September 9th to Chairman Schiff that would
21 serve as the basis for opening a full-fledged investigation?

22 MR. ATKINSON: No, the IC IG did not provide any
23 information like that.

24 MR. RATCLIFFE: So do you know whether or not -- can you
25 rule out whether or not the whistleblower was the person or

1 persons, one of the persons that provided enough information
2 to justify the launch of a full-fledged investigation on the
3 same day that you provided notification to Congress?

4 MR. ATKINSON: I have no personal knowledge of any
5 information provided by the complainant to the HPSCI staff or
6 members.

7 MR. RATCLIFFE: On September 19th, when Chairman Schiff
8 publicly said, quote, "We might not have even known there was
9 a whistleblower complaint," end quote, but for you, and
10 personally thanked you, that was not a truthful statement,
11 was it? The chairman was already well aware of a
12 whistleblower having concerns related to a phone call between
13 President Trump and President Zelensky?

14 THE CHAIRMAN: I'm going to interject here with that
15 offensive question, and I would ask my colleague to stop the
16 personal attacks. You can ask the Inspector General
17 any question --

18 MR. RATCLIFFE: Hold on now, this is my time. Hold on,
19 this is my time. I have not made any personal attacks here.

20 THE CHAIRMAN: Yes, but I'm the chairman of this
21 committee. This is a personal attack.

22 MR. RATCLIFFE: I'm asking a question about a statement
23 that you not only made, but that you acknowledged yesterday
24 was not a truthful statement.

25 THE CHAIRMAN: That is not accurate either. Now you're

1 making an untruthful statement.

2 MR. RATCLIFFE: You said it was a statement that needed
3 to be clarified.

4 THE CHAIRMAN: Not the one you're referring to,
5 Mr. Ratcliffe.

6 MR. RATCLIFFE: I think the record will speak for
7 itself.

8 THE CHAIRMAN: It will speak for itself, but it won't
9 reflect well on you. So, Mr. Ratcliffe, if you have a
10 legitimate question that's not a personal attack, you may
11 feel free to ask it.

12 MR. RATCLIFFE: Chairman, I don't want you to take any
13 of this as a personal attack. Again, just so you're real
14 clear on my line of questioning here, where in the American
15 justice system can someone who is a fact witness also be the
16 prosecutor and investigator in a case? And the fact is that
17 they can't.

18 [REDACTED] You understand a fact witness is someone
19 who actually witnessed the events of the allegations,
20 correct? So is Mr. Atkinson a fact witness? He heard about
21 these allegations, too.

22 MR. RATCLIFFE: [REDACTED] as the Inspector General
23 has made very clear, we don't know anything about what -- I'm
24 not making accusations, but at this point in time there are
25 Republican and Democrat members that don't know the details

1 to which there was contact between the whistleblower and
2 members of the HPSCI majority. Those are details that we
3 have to get from someone, and the Inspector General has made
4 it very clear over and over in the record that he doesn't
5 have that information.

6 THE CHAIRMAN: Mr. Ratcliffe, as the ranking member
7 himself said the last time the Inspector General was before
8 this committee, it is perfectly appropriate for
9 whistleblowers to come directly to the committee.

10 MR. RATCLIFFE: It is.

11 THE CHAIRMAN: Indeed, on the website of the ranking
12 member's, there is a whistleblower --

13 MR. RATCLIFFE: Absolutely. Chairman, let me just on my
14 time --

15 THE CHAIRMAN: If you'd let me finish, I won't deduct
16 this from your time.

17 As Senator Burr acknowledged as well, it is perfectly
18 appropriate for a whistleblower to come before the
19 congressional committees and be referred to the Inspector
20 General. So all the insinuations that this is somehow
21 insidious I think do discredit to the whistleblower system
22 and chill further whistleblowers from coming before the
23 committee.

24 When whistleblowers do come to the committee, they often
25 express a preference whether they want to when they answer

1 the hotline, speak to the majority or minority. There are
2 undoubtedly countless whistleblowers that have spoken to the
3 minority and not spoken to the majority. We understand
4 that's how it works. And so, if you'd please stop all the
5 insinuations.

6 As you should know and perhaps you don't, not every
7 whistleblower that is referred to the IG files a complaint.
8 And because we didn't have the complaint, there was no way
9 for us to know what the subject matter of that complaint was.

10 So your insinuations are just a personal attack and
11 nothing more, and I would ask you to refrain from them. And
12 you may continue with your questions.

13 MR. RATCLIFFE: Thank you, Chairman.

14 So the record is clear, it's entirely appropriate for
15 whistleblowers to come to the committee and to discuss it to
16 the committee. I think what is different here, and the point
17 that I am trying to make sure that there is a record of, is
18 that once that happens, after you consult with a
19 whistleblower, the same parties should not be in charge of an
20 investigation, particularly one that relates to the removal
21 of a President from office.

22 And so for us to try and find out what the nature and
23 extent --

24 THE CHAIRMAN: Mr. --

25 MR. RATCLIFFE: Can I finish?

1 THE CHAIRMAN: Yes.

2 MR. RATCLIFFE: The nature and extent of what those
3 contacts were from someone under oath, that's what we're
4 trying to get to. And the Inspector General is telling us he
5 is not that person, and his office is not that person to tell
6 us under oath what those details are.

7 That's the point I'm trying to make. And if I have
8 asked those questions in a way that personally offends you,
9 then I would apologize for that, but that's not my intent.

10 THE CHAIRMAN: Mr. Ratcliffe, I find remarkable the
11 suggestion that if a whistleblower comes to the majority or
12 minority, that whichever majority or minority that
13 whistleblower comes to is somehow disqualified from
14 conducting an investigation. That's an absurd idea.

15 It would mean that no whistleblower complaint
16 effectively could be investigated by the committee, because
17 whatever majority or minority part the complaint was brought
18 to or the issue was brought to would somehow be disqualified.
19 That's absurd.

20 And so, I understand the President's desire to attack
21 me, and I understand the dutiful way you go about that task,
22 but if we could confine our questions to the Inspector
23 General of things that the Inspector General has knowledge
24 of, I would appreciate it.

25 MR. RATCLIFFE: Well, I have, I think, and I think the

1 record is real clear. And so that, again. I've said it and I
2 want to be real clear.

3 The Intelligence Community Inspector General, and the
4 investigative team does not have any information that you can
5 provide under oath about contacts between the whistleblower
6 and the HPSCI majority members or staff?

7 MR. ATKINSON: That is correct.

8 THE CHAIRMAN: If I could, Mr. Ratcliffe, because I do
9 want to explain. I was asked a question about whether the
10 whistleblower had come to our committee, and I misspoke. I
11 meant to say the whistleblower had not been permitted to
12 testify to the committee. That was my mistake and I own it.
13 But please do not suggest by that that I, or anyone else had
14 an intention to deceive, or that somehow the whistleblower
15 improperly came to the committee or that there was some --

16 MR. RATCLIFFE: I've done nothing of the sort.

17 THE CHAIRMAN: All right. I thank you then.

18 MR. RATCLIFFE: I'll yield to Mr. Stewart.

19 MR. NUNES: What's the time here?

20 [REDACTED] Whatever you gave to Mr. --

21 MR. NUNES: We have 1 minute left.

22 Mr. Chairman, let me -- I've just got a quick question
23 here on the timeline that I think you can get done in 1
24 minute.

25 On September 3rd, you said you met with the IGs from the

1 Department of Justice, Department of State, and where?

2 MR. ATKINSON: Department of Defense.

3 MR. NUNES: And DOD, okay. Was there a reason that you
4 didn't interview the CIA Inspector General?

5 MR. ATKINSON: You mean, invite the CIA Inspector
6 General?

7 MR. NUNES: Or invite to this meeting that you held on
8 September 3rd?

9 MR. ATKINSON: There is a reason for that. The reason
10 was because OLC's opinion was that my office did not have
11 jurisdiction over the matter because, according to OLC, it
12 did not relate to an intelligence activity. The CIA's
13 jurisdiction is no more extensive and, in fact, it's less
14 than my office's jurisdiction.

15 So my purpose in meeting with the other IGs was to find
16 other Inspectors General who would have jurisdiction over
17 other subject matters, and so that's what I did.

18 MR. NUNES: What I'm trying to figure out, the press
19 reports -- Mr. Ratcliffe got to it -- is, were you aware that
20 this whistleblower had went to the CIA Inspector General?

21 MR. ATKINSON: I'm not going to -- I'm respectfully
22 going to decline to answer that, because it could lead to the
23 identity of the whistleblower.

24 MR. NUNES: Well, everybody but us knows the identity of
25 the whistleblower. You know it. The majority knows it. The

1 staff know it, majority staff know it.

2 THE CHAIRMAN: Mr. Nunes, that's not accurate.

3 MR. NUNES: Oh, okay, all right. Well, I correct
4 myself. They don't know the identity, but The New York Times
5 seems to have a pretty good picture of who it is.

6 So the CIA Inspector General, you're not going to answer
7 whether or not you knew that or not?

8 MR. ATKINSON: I'm sorry, Ranking Member Nunes, can you
9 ask that again?

10 MR. NUNES: The CIA Inspector General, you're declining
11 to answer whether or not you knew if the whistleblower went
12 to the CIA Inspector General?

13 MR. ATKINSON: Yes, I am declining to answer that.

14 MR. NUNES: Okay, thank you.

15 [REDACTED] I just want to put two things on the
16 record related to the tweets that have been introduced as
17 exhibits 4 and 5. They both are what I believe are called
18 re-tweets of press reporting directly on the topic, and I
19 think we can take note of the fact -- and I don't need to ask
20 the Inspector General this -- that the complaint itself
21 references press reports, including a May 9th press report in
22 The New York Times about a trip by Rudy -- an intended trio
23 by Rudy Giuliani to Ukraine in order to press for
24 investigations.

25 [REDACTED] [REDACTED] [REDACTED], did you want to --

[REDACTED]

[REDACTED]

1 MR. ATKINSON: I need to clarify one thing. Do you have
2 a copy of The New York Times article? Was that August -- did
3 you say August 23rd?

4 [REDACTED].

5 MR. ATKINSON: Okay. I believe that I did see the
6 August 23rd New York Times article at or around the time,
7 because it had information about Mr. Giuliani's trip to
8 Madrid, Spain. Is that right?

9 [REDACTED] The tweet from Ken Vogel from the New York
10 Times that is the subject of the re-tweet by Chairman Schiff
11 says: "Scoop, months after he abandoned a trip to Ukraine to
12 urge the new government to investigate Trump's rivals,
13 @RudyGiuliani began secretly talking to a close aide to the
14 new Ukraine President (including at a meeting in Madrid) to
15 push the investigations.

16 MR. ATKINSON: Okay. So the first time I saw Chairman
17 Schiff's tweet about that was today, but I do remember
18 reading The New York Times article, either that day or the
19 next day, because it added to the sense of urgency that I had
20 about the matter, because it suggested that there was
21 activity ongoing related to the alleged efforts to solicit
22 assistance.

23 So I do remember reading that article and it being
24 part -- the fact that Mr. Giuliani had gone to Spain, and I
25 believe the article mentions that he talked about CrowdStrike

[REDACTED]

[REDACTED]

1 and the Biden family as well in that article, except that he
2 said he went on his own behalf and not the President's. But
3 I believe I read -- I saw that article at the time, and it
4 contributed to my sense that this was an urgent matter,
5 because there was ongoing activity related to the alleged
6 urgent concern.

7 [REDACTED] And just so you can clarify for the
8 record, Mr. Ratcliffe used the term "key and material fact
9 witness." How would you define, based on your 16 years as a
10 prosecutor, and year and a half as an Inspector General, what
11 a key and material fact witness would be for an
12 investigation?

13 MR. ATKINSON: They tend to be individuals who have
14 firsthand knowledge of the incident. They -- I mean, they
15 have witnessed the event, they have firsthand knowledge about
16 the event, and can testify in a way that their statements
17 will be admitted into court.

18 That tends to be witnesses with firsthand information,
19 although witnesses with hearsay information can still be
20 important witnesses, because they can corroborate the
21 statements of firsthand witnesses.

22 [REDACTED] Do you consider yourself to be a witness
23 in the whistleblower's complaint and the subsequent
24 investigation that flowed from it?

25 MR. ATKINSON: One of the reasons I did not participate

[REDACTED]

1 in the interviews of the complainant was because I did not
2 want to become a witness in the investigation.

3 [REDACTED] And you would be a witness because you
4 would have received information from people who had first
5 or -- firsthand knowledge or relevant information?

6 MR. ATKINSON: In that situation, if I had interviewed
7 the complainant and if we're in court and the complainant
8 said something, you know, contrary to what they had said to
9 an interviewer, the interviewer can become a witness in that
10 situation.

11 [REDACTED] But only because you'd be recounting what
12 someone else said to you?

13 MR. ATKINSON: Only because you'd be recounting what you
14 heard firsthand from that witness.

15 [REDACTED] But you yourself, for example, don't have
16 any firsthand knowledge of the allegations in the complaint?

17 MR. ATKINSON: Correct.

18 [REDACTED] So someone who received information about
19 an allegation is not a key and material fact witness if they
20 don't have the firsthand knowledge?

21 MR. ATKINSON: Not normally, no.

22 [REDACTED] If someone were involved, for example, in
23 pushing Ukraine to investigate Biden or the 2016 elections,
24 would that person potentially be a key and material fact
25 witness to this investigation?

1 MR. ATKINSON: Can you ask the question one more time?

2 [REDACTED] If someone were involved in trying to push
3 Ukraine or Ukrainian officials to initiate investigations
4 into Joe Biden as an example, would that person potentially
5 be a key and material fact witness?

6 MR. ATKINSON: I think -- the answer I believe is yes,
7 but what would be critically important was whether that
8 witness was acting wittingly or unwittingly in an effort by a
9 U.S. public official to obtain assistance from a foreign
10 official in a U.S. election.

11 [REDACTED] Mr. Maloney, do --

12 MR. MALONEY: I had a comment that related to
13 Mr. Ratcliffe's question, but because he left the room I'll
14 suspend.

15 [REDACTED] Do you need a break? Do you want to take
16 a 5-minute break or so?

17 MR. ATKINSON: Sure. Yes.

18 [REDACTED] I don't think we're going to go too long,
19 but if you want a break. I mean, we do have probably another
20 full round of our own.

21 [REDACTED] So you're going to take a little break and
22 resume?

23 [REDACTED] I don't know that there's a time limit
24 here, but yes. All right. We'll go off the record and take
25 a 5-minute bathroom break.

[Recess.]

We can go back on the record if you guys are ready. I don't know exactly how much time.

They got it.

We got it? Okay, great.

You had about 5 minutes before.

Mr. Atkinson, I want to go through a little bit of the timeline that you outlined in your opening statement. I believe you said that you first notified the ODNI, through the General Counsel's Office, on the 21st of August. Is that right?

MR. ATKINSON: August 22nd.

August 22nd, okay. And then you met with Admiral Maguire himself the following day, on the 23rd, and shared the complaint with him?

MR. ATKINSON: The complaint and the classified appendix.

And the classified appendix, okay.

You indicated earlier today that you expected to pursue an investigation yourself, but that also you thought that the ODNI might use their 7 days to try to, at a minimum, get the call record from the call. Is that accurate?

MR. ATKINSON: I didn't -- the ODNI, by the statute, is not required to, you know, take any action to try to support or refute, contradict my credibility or determination. And

1 so it wasn't -- and this was the first time in however long
2 it's been, 16 months since I've been the Inspector General,
3 that we -- that I had an urgent concern that I deemed to be
4 credible.

5 And so my expectations for what I expected the Acting
6 DNI to do in response to information I gave to him on August
7 23rd, they weren't set. I wasn't certain what the Acting
8 DNI, you know, would do or necessarily should do. We both --
9 I think we both understood on August 23rd, that the records
10 of the call would be very important information. And I don't
11 want to get into the substance of our discussions, but we --
12 I think we both appreciated how important those records would
13 be.

14 And the question was -- that we went back and forth with
15 was how willing would the White House be to share those --
16 the records of the call with us as part of this urgent
17 concern process.

18 And so, I knew that I was going to be asking for access
19 to those records on August 26, that we would be submitting
20 that access request on August 26. And what we talked about
21 was whether in the 7 days that the Acting DNI had, whether
22 there could be other efforts made to try to get access to
23 those call records.

24 [REDACTED] Did you have a discussion about pursuing
25 any other investigative leads during that 7-day period.

[REDACTED]

1 separate and apart from the call record?

2 MR. ATKINSON: No, nothing beyond my alerting the Acting
3 DNI on August 23rd that I intended to investigate or
4 participate in an investigation of the matter, and that I
5 intended to refer the matter to the FBI.

6 MR. ATKINSON: And just to summarize the investigation
7 to that point that you had done, you had interviewed four
8 witnesses, including the complainant, right?

9 MR. ATKINSON: Correct.

10 [REDACTED] You'd obtained the -- well, you had
11 received from the complainant a number of documents,
12 including the complaint, a classified appendix, and a
13 memorandum of conversation of July 26. Is that right?

14 MR. ATKINSON: Correct, plus the complainant's letter
15 addressed to the Intelligence Community Inspector General.

16 [REDACTED] Right. Did you interview any other
17 witnesses?

18 MR. ATKINSON: No, not to my recollection.

19 [REDACTED] Did you obtain any other documents?

20 MR. ATKINSON: We looked to try to corroborate some of
21 the public information, in terms of the -- what was in the
22 complainant's disclosure, and we made efforts to try to
23 determine whether any of the security assistance that had
24 been suspended was, or included National Intelligence Plan
25 funding, because I thought that if any of the security

[REDACTED]

[REDACTED]

1 assistance that had been suspended or frozen included
2 National Intelligence Plan funding, that that would be
3 another way for my office to have jurisdiction over an
4 investigation related to that.

5 [REDACTED] And what did you determine with regard to
6 that?

7 MR. ATKINSON: The -- and please don't -- please
8 understand, people this morning, and in your earlier
9 questions, you've used the word "investigation." I use the
10 word "preliminary review." We -- and I use that word because
11 we were just -- we understood that the next phase would be a
12 full-blown investigation, but we were in a preliminary
13 review.

14 Our preliminary review determined -- and this was based
15 on communications that I had with ODNI's general counsel, who
16 was in communication with ODNI's chief financial officer,
17 that it did not appear that the funding that had been
18 suspended or frozen included national intelligence funding.
19 It appeared to be related solely to military funding.

20 [REDACTED] Was it your understanding that the ODNI
21 was going to assist in any way in your anticipated ongoing
22 investigation?

23 MR. ATKINSON: I did not have those conversations with
24 Admiral Maguire, or with ODNI's Office of General Counsel. I
25 think that they -- that the conversations we were having, we

[REDACTED]

[REDACTED]

1 were working closely together, and they were -- they were
2 supporting our preliminary review, in terms of what I just
3 mentioned, the conversation -- the question we had about the
4 military funding, and they were supportive in helping us try
5 to run down that -- or try to run down that information on
6 such a short time period.

7 [REDACTED] [REDACTED] You said that you also made a referral to
8 the FBI. What did you provide to the FBI as part of that
9 referral?

10 MR. ATKINSON: On August 27th, when I talked to Director
11 Wray's chief of staff, I provided an oral summary of the
12 complainant's allegations. That was on a secure phone call.

13 On September --

14 [REDACTED] Are you talking about -- are you looking
15 for the date of the official referral?

16 MR. ATKINSON: September 4th.

17 [REDACTED] September 4th.

18 MR. ATKINSON: On September 4th, in my letter to the
19 FBI, we included the complainant's letter in the classified
20 appendix.

21 [REDACTED] And you cc'd the chief of the Criminal
22 Division for the Department of Justice on that referral to
23 the FBI; is that right?

24 MR. ATKINSON: We copied the Acting Attorney General for
25 the Criminal Division, correct.

[REDACTED]

1 [REDACTED] I'm sorry. And why did you do that?

2 MR. ATKINSON: I understood from the Department of
3 Justice's Office of Legal Counsel that OLC had, on its own,
4 referred the matter to the Department of Justice's Criminal
5 Division.

6 [REDACTED] And do you know what OLC had provided to
7 the Criminal Division of the Department of Justice?

8 MR. ATKINSON: I do not know.

9 [REDACTED] Did you hear back from the FBI after you
10 made the referral?

11 MR. ATKINSON: After the September 4th letter?

12 [REDACTED] Yes, on this matter.

13 MR. ATKINSON: One of the individuals on the
14 investigative team has a relationship with the FBI, and that
15 individual was in contact with individuals at the FBI about
16 what the FBI was doing, or intended to do about our referral.
17 And the information that was coming back was that there
18 didn't seem to be -- we -- there didn't seem to be
19 investigative activity on our matter.

20 We were recently contacted 2 days ago by the FBI, asking
21 for access to our preliminary review files.

22 [REDACTED] Is that the first time that they had asked
23 for any additional information from you?

24 MR. ATKINSON: Yes. So I understand that at some point
25 after September 4th, the Deputy Assistant Director for the

1 Counterintelligence Division had suggested a meeting. I
2 don't know when that exact date was. But no meeting took
3 place.

4 [REDACTED] Do you know what precipitated the call 2
5 days ago, or the communication 2 days ago requesting those
6 files?

7 MR. ATKINSON: I do not.

8 [REDACTED] Was it from the Counterintelligence
9 Division?

10 A No, it was from a different division of the FBI.

11 Q So you had originally referred it to the
12 Counterintelligence Division, and then 2 days ago, a
13 different division reached out to you?

14 MR. ATKINSON: Correct.

15 [REDACTED] Which division?

16 MR. ATKINSON: I'm hesitant to say. I'm happy to take
17 that under consideration. If the FBI is engaging in an
18 active law enforcement investigation, I'm just hesitant to
19 disclose that information.

20 [REDACTED] Well, you can imagine our curiosity,
21 because I don't know, are you familiar with the press release
22 issued by the Department of Justice last Thursday after the
23 complaint came down, or the complaint was released?

24 MR. ATKINSON: Do you have a copy of it?

25 [REDACTED] I do. We have a couple copies and we can

[REDACTED]

1 give one to the minority as well. We actually only have one
2 excerpt of it, because it wasn't published on their website,
3 but we'll mark this as exhibit 6.

4 [Atkinson Exhibit No. 6

5 was marked for identification.]

6 [REDACTED] [REDACTED] And in the middle paragraph, there's a
7 quotation from DOJ Spokesperson Kerri Kupec which is the
8 aspect of this press statement that relates to the
9 investigation. I'll read it for the record.

10 "Relying on established procedures set forth in the
11 justice manual, the Department's Criminal Division reviewed
12 the official record of the call and determined, based on the
13 facts and applicable law, that there was no campaign finance
14 violation and that no further action was warranted. All
15 relevant components of the Department agreed with this legal
16 conclusion and the Department has concluded the matter."

17 So this was on September 26th. Just so we're clear,
18 Mr. Atkinson, this -- you agree with me, I assume, that this
19 statement references a review of the official record of the
20 call only. Is that correct?

21 MR. ATKINSON: Well, the statement only refers to the
22 official record of the call.

23 [REDACTED] [REDACTED] The statement does not indicate that the
24 Department of Justice's Criminal Division reviewed the
25 complaint, the addendum, or your determination in making this

[REDACTED]

1 declination decision. Is that accurate?

2 MR. ATKINSON: I don't know what they -- I don't know
3 what the Department of Justice means when they said the
4 Department of Justice -- the Department's Criminal Division
5 reviewed the official record of the call and determined,
6 based on the facts and applicable law. I don't know what --
7 I don't know whether the facts are limited to the official
8 record of the call or not.

9 [REDACTED] Well, it doesn't mention they reviewed
10 anything other than the official record of the call, right?

11 MR. ATKINSON: It says they reviewed the official record
12 of the call, correct.

13 [REDACTED] And just so the record is clear, you did
14 provide more information to the Department of Justice and the
15 FBI as part of your criminal referral on September 4th. Is
16 that right?

17 MR. ATKINSON: Yes. We provided them with my
18 determination that I had sent to the Acting DNI, the
19 complainant's letter, and the complainant's classified
20 appendix.

21 And I just want to make one thing clear: My office did
22 not refer the matter to the FBI's Counterintelligence
23 Division. What happened was after I contacted Mr. Murphy, it
24 was the Counterintelligence Division who contacted us,
25 contacted my office.

1 [REDACTED] So the FBI referred it to their
2 Counterintelligence Division?

3 MR. ATKINSON: That's my understanding, correct.

4 [REDACTED]: All right. Have you provided the FBI with
5 your preliminary review file?

6 MR. ATKINSON: No, we have not.

7 [REDACTED]: Do you intend to?

8 MR. ATKINSON: Under the right circumstances, yes.

9 [REDACTED]: What would those circumstances be?

10 MR. ATKINSON: So I've asked to meet with the FBI to
11 understand how the FBI intends to proceed with an
12 investigation.

13 [REDACTED]: Were you surprised by this call?

14 MR. ATKINSON: I was surprised that we didn't get a call
15 earlier, that there wasn't follow-up to our initial referral.

16 [REDACTED]: Because you thought it should be
17 investigated?

18 MR. ATKINSON: I -- yes.

19 [REDACTED]: And you were -- maybe you weren't aware of
20 the details of this statement, but you were aware that the
21 DOJ announced that they declined to investigate the matter.
22 Is that right?

23 MR. ATKINSON: I have seen the statement, yes.

24 [REDACTED]: So you were, therefore, aware that the DOJ
25 had declined to investigate it as of last Thursday?

1 MR. ATKINSON: Correct.

2 [REDACTED] Mr. Atkinson, we'd ask you to keep us --
3 and we will speak with the FBI as well, but currently and --
4 fully and currently informed about any further conversations
5 you have with the FBI, to the extent that you are able to,
6 understanding the limitations that may involve an ongoing
7 investigation.

8 I want to turn now to the White House's involvement in
9 the timeline.

10 THE CHAIRMAN: Representative Speier.

11 MS. SPEIER: Thank you. I just have one question.

12 Inspector General, the interest of the FBI into the case
13 at this point in time is of concern to me if the interest is
14 to unmask the whistleblower, or through whatever means that
15 your file could allow them to determine who the whistleblower
16 is. Can you give us any sense of confidence that that would
17 not be the case?

18 MR. ATKINSON: Well, based on my past experience as a
19 Federal prosecutor, I have found the agents who I have worked
20 with to be highly professional. I understand that the
21 situation we have here is not one I've been in before.

22 And I have a statutory obligation to protect the
23 confidentiality of the witnesses we interviewed, and I take
24 that statutory obligation very seriously, and I will not
25 disclose those identities until the witnesses consent, or I

1 determine that it's unavoidable, or I determine that it's
2 necessary in order for the Department of Justice to make a
3 charging decision.

4 MS. SPEIER: Just to clarify, any files you would be
5 turning over would not, in some way, alert the FBI or the AG
6 or the White House as to the identity of the whistleblower?

7 MR. ATKINSON: That is correct, unless the witnesses
8 decide to waive their confidentiality.

9 MS. SPEIER: Thank you.

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1 THE CHAIRMAN: I just want to follow up.

2 Some time ago, you referred the matter to the FBI. The
3 FBI was not allowed to pursue the matter because the
4 Department of Justice opined that the facts, on their
5 surface, wouldn't constitute a violation of the campaign
6 finance laws. Is that roughly accurate?

7 MR. ATKINSON: I only know, Chairman Schiff, what I read
8 in the Department of Justice press release.

9 THE CHAIRMAN: So they declined to investigate about 3
10 weeks or so ago when you referred the matter to them?

11 MR. ATKINSON: Again, according to the press release. I
12 know what I know what happened at the Department of Justice
13 from the press release.

14 THE CHAIRMAN: But you recently have been asked to
15 provide information from your files to the FBI. Have they
16 indicated to you that they have reconsidered the decision
17 they made earlier or whether they're looking at other
18 potential illegality?

19 MR. ATKINSON: I haven't had direct conversations with
20 the FBI, so I'm not certain what was the substance of those
21 communications.

22 THE CHAIRMAN: Do you know whether the new or renewed
23 interest by the FBI in the files is related at all to the
24 release of the, or acquisition of the text messages from
25 State Department employees?

1 MR. ATKINSON: I do not know. I do not know.

2 [REDACTED] Do you have any knowledge of whether
3 anyone in the White House or the White House Counsel's
4 Office --

5 THE CHAIRMAN: I'm sorry can I ask one last question.

6 Do you know whether any other IG has made a referral to
7 the FBI of a potential criminal case, based on any of the
8 facts that are cited in this complaint, as in the State IG or
9 any other?

10 MR. ATKINSON: I do not know that. As I said before, I
11 was -- I erroneously stated in my letter to the FBI that the
12 State Department had made a criminal referral. Again, the
13 State Department just shared documents with the FBI, not that
14 they, as far as I knew, had made a formal criminal referral.

15 THE CHAIRMAN: And that was some time ago?

16 MR. ATKINSON: I understood it was several months ago,
17 yes.

18 THE CHAIRMAN: You don't know whether the State
19 Department IG has now made a criminal referral, do you?

20 MR. ATKINSON: I do not know.

21 THE CHAIRMAN: Okay.

22 [REDACTED] And you haven't seen the documents -- have
23 you seen the documents that the State IG provided to the FBI?

24 MR. ATKINSON: I have. Well, I should say I saw the
25 documents that the State IG provided yesterday to the

[REDACTED]

1 committees.

2 [REDACTED] Okay.

3 MR. ATKINSON: And I saw them as part of a -- I offered
4 to put those through a classification review for the State
5 Department IG. And so they were given to us, given to me
6 yesterday for purposes of conducting that classification
7 review.

8 [REDACTED] Before providing them to Congress?

9 MR. ATKINSON: Yes.

10 [REDACTED] Okay. Mr. Heck, do you have some
11 questions?

12 MR. HECK: Yes, very briefly. Thank you.

13 Inspector General, in your transmission to the Federal
14 Bureau of Investigation, you indicate, as you have in other
15 documents, that U.S. laws prohibit a person from soliciting,
16 accepting, or receiving a contribution or donation from a
17 foreign national. Just to clarify, that activity is
18 prohibited under Federal law. Is it in and of itself
19 criminal?

20 MR. ATKINSON: The campaign finance laws are criminally
21 enforceable.

22 MR. HECK: I'm sorry, I do not understand that nuance.
23 I'm not an attorney. If somebody engages in this activity,
24 is it a crime punishable by imprisonment?

25 MR. ATKINSON: It can be, yes.

1 MR. HECK: And you further state, as you did elsewhere,
2 that a conspiracy to engage in such illegal activity also
3 might violate other criminally enforceable laws.

4 My question is, is a conspiracy to cover up such illegal
5 conduct also criminally enforceable?

6 MR. ATKINSON: So, to take -- I'm going to answer your
7 question outside the context of these specific facts, but any
8 effort to obstruct or impair or impede the criminal justice
9 system is obstruction of justice and it is criminally
10 enforceable, yes.

11 MR. HECK: Thank you.

12 [REDACTED] Mr. Atkinson, are you aware that anyone at
13 the White House, including in the White House Counsel's
14 Office, is aware of the identity of the whistleblower.

15 MR. ATKINSON: Can you ask your question again?

16 [REDACTED] Do you know if anyone who works at the
17 White House, including the White House Counsel's Office, is
18 aware of the identity of the whistleblower?

19 MR. ATKINSON: Of the -- I just want to be clear. That
20 they know the whistleblower --

21 [REDACTED] The complainant.

22 MR. ATKINSON: -- filed this complaint?

23 [REDACTED] They know the whistleblower who filed this
24 complaint on August 12th. Do they know the identity of that
25 individual?

1 MR. ATKINSON: I do not know whether individuals at the
2 White House are aware of the identity of the whistleblower
3 and that the whistleblower has filed this complaint.

4 [REDACTED] I don't understand the second part of your
5 answer.

6 MR. ATKINSON: So --

7 [REDACTED] And that the whistleblower has filed this
8 complaint?

9 MR. ATKINSON: To my knowledge -- to my knowledge,
10 the -- I do not know whether individuals at the White House
11 know this whistleblower's identity.

12 [REDACTED] Okay. Do you have any reason to suspect
13 that anyone does, based on any conversations you've had in
14 the course of your official duties?

15 MR. ATKINSON: I don't know what communications took
16 place with the White House before the complainant -- I don't
17 know. I don't know what the White House knows about the
18 complainant's identity.

19 [REDACTED] Okay. Did you have any contact yourself
20 with the White House Counsel's Office?

21 MR. ATKINSON: Only the one conversation I talked about
22 on August 27th, when the lawyers from the National Security
23 Council confirmed that they had received my access and
24 document hold notice and that they would honor it.

25 [REDACTED] Is that John Eisenberg who you spoke to?

1 MR. ATKINSON: Mr. Eisenberg was one of the individuals,
2 yes.

3 [REDACTED] And you had no previous conversation with
4 anyone in the National Security Council's Legal Adviser's
5 Office or the White House Counsel's Office prior to August
6 27th?

7 MR. ATKINSON: To the best of my knowledge, that is
8 correct.

9 [REDACTED] Okay. Admiral Maguire testified last week
10 that he or his General Counsel's Office alerted the White
11 House Counsel's Office to this complaint. Were you aware of
12 that prior to his testimony?

13 MR. ATKINSON: I knew at least by August 26, when I made
14 my transmittal to the Acting DNI, that the ODNI general
15 counsel intended to share a copy of the complainant's letter
16 and classified appendix with attorneys at the White House for
17 purposes of a privilege review.

18 [REDACTED] Do you recall exactly when you learned
19 that? Did you discuss it at your August 23rd meeting with
20 Admiral Maguire and Jason Klitenic?

21 MR. ATKINSON: I don't have a clear recollection. We
22 may have. But I clearly understood by August 26 that the
23 complainant's letter and classified appendix would be shared
24 with lawyers at the White House for purposes of a privilege
25 review.

1 And one of the reasons I remember that so clearly was
2 because we had to -- it was important to me that we get the
3 complainant's consent before that information was shared with
4 lawyers at the White House.

5 [REDACTED] Did you get that consent?

6 MR. ATKINSON: On August 26, 2019, the investigators
7 spoke to the complainant and obtained the complainant's
8 consent to share that information with lawyers at the White
9 House. I will tell you that the complainant was very
10 reluctant about doing that, so much -- now, August 26, now,
11 we are out of time. Our 14 days are up.

12 And the complainant was reluctant to share the
13 information with the White House lawyers. I offered to the
14 complainant or had my investigative team offer to the
15 complainant that [REDACTED] could -- the complainant could withdraw
16 his or her request to transmit the information to the
17 intelligence committees and that I would do it, I would do it
18 on his behalf.

19 In other words, I have a 7-day provision where if I
20 think there's a serious or flagrant abuse problem, violation
21 of law myself. I can transmit that notice to the Acting DNI,
22 and then the Acting DNI has 7 days to comment on that and
23 then that goes to the intelligence committees.

24 So what I did was I said to the whistleblower was, if
25 you are not comfortable with this information going to the

[REDACTED]

1 White House. I will do it for you. I will remove your name
2 or remove you as the source and I will submit that
3 information to the Acting DNI, and it will go to the
4 intelligence committees in the same way, but not through the
5 urgent concern statute. And the whistleblower at that point
6 decided that since the IG was going to make the report that
7 the whistleblower may as well do it as well.

8 [REDACTED] Would going through your office avoid the
9 privilege review?

10 MR. ATKINSON: No.

11 [REDACTED] But it would just avoid associating the
12 subject matter of the complaint with the complainant?

13 MR. ATKINSON: There would be additional ways
14 potentially to try to mask the identity of the complainant.

15 [REDACTED] Did you relay to the complainant that
16 there was no way to avoid a privilege review of the subject
17 matter?

18 MR. ATKINSON: My investigative team did say that it
19 would be necessary, for purposes of executive branch
20 privilege and any other privileges, for people in the White
21 House, given the nature of the information, the sensitivity
22 of the information, that it would have to go through that
23 White House review.

24 [REDACTED] On the August 27th phone call, remind us
25 what the sum and substance of that call was with the White

[REDACTED]

[REDACTED]

1 House Counsel's Office or the National Security Legal
2 Adviser?

3 MR. ATKINSON: It was a very brief conversation. They
4 acknowledged that they had received my office's access
5 request and document hold notice. The lawyers represented
6 that they would honor that request.

7 I remember that they wanted to put the document hold
8 notice in the context of a broader document hold, so that the
9 hold notice wasn't unique to the Ukraine call, the Ukraine
10 matter, but it would encompass other matters as well. I
11 agreed with that as long as it included the matters that I
12 specifically requested.

13 They also asked whether my request bound departments or
14 agencies outside of the White House, specifically the State
15 Department. And I told them no, it did not, it only bound
16 the Executive Office of the President.

17 [REDACTED] Why did they ask you about the State
18 Department?

19 MR. ATKINSON: I do not know.

20 [REDACTED] Do you know why -- did they explain why
21 they wanted to include the specific call and the materials
22 surrounding the call in a broader context for the hold
23 purpose?

24 MR. ATKINSON: I don't remember whether they explained
25 that, I think they -- I don't remember exactly what was said

[REDACTED]

[REDACTED]

1 about that. I do remember that they wanted to include it in
2 a broader document hold notice.

3 [REDACTED] And from your experience, in order to put
4 a hold on something, there has to be -- the message has to be
5 relayed to other people to keep the holds, correct?

6 MR. ATKINSON: Right. And as you can see in my -- I
7 keep saying my. In my office's document hold and
8 preservation request, there are instructions on what are to
9 be done to make sure that individuals with potential
10 documents receive that notice.

11 [REDACTED] Okay. So is it -- all right. Was there
12 any mention of a privilege review in that phone conversation?

13 MR. ATKINSON: No, I don't remember that.

14 [REDACTED] Was there ever any mention in that August
15 27th call with the White House of a potential OLC review of
16 the matter with the White House Counsel's Office?

17 MR. ATKINSON: I don't remember that being discussed in
18 that call.

19 [REDACTED] Okay. Do you know how -- well, why don't
20 you explain to us how the OLC got involved in this matter?

21 MR. ATKINSON: I'm not the best witness for how OLC got
22 involved in this matter.

23 [REDACTED] Fair enough, but you are the witness
24 that's here, so what do you know about how OLC got involved?

25 MR. ATKINSON: My recollection is that we received the

[REDACTED]

[REDACTED]

1 complaint -- my office received the complaint on August 12th.
2 August 14th was the acting DNI's -- not the Acting -- former
3 DNI Coats' going away party. And I had a conversation at
4 that event with ODNI's General Counsel Jason Klitenic, who
5 informed me that he had information that my office was going
6 to be getting an urgent concern -- or a disclosure. He
7 didn't have the details. He just wanted to give me a
8 heads-up that my office either had already received or would
9 receive a disclosure.

10 And I remember the next day I received the disclosure.
11 And I remember somewhere in that process, and it may have
12 been when I met with Mr. Klitenic and [REDACTED] on August
13 22nd, that there was a discussion about the Department of
14 Justice's Office of Legal Counsel had been -- had looked at
15 the matter, had looked at the activity, the alleged activity,
16 and was of the view, even as early as August 22nd, that my
17 office might not have jurisdiction over the matter, which was
18 surprising to me that the Office of Legal Counsel had gotten
19 involved and was taking the position that foreign election
20 interference was not within the jurisdiction of the Director
21 of National Intelligence.

22 I also remember -- and I believe it was during the
23 conversation on August 22nd with Mr. Klitenic and
24 [REDACTED] -- being informed that a Department of Justice
25 official had gone and looked at the record of the call at the

[REDACTED]

[REDACTED]

1 White House, and words to the effect of, although it was a
2 close call, there was nothing wrong in the view of whoever
3 that Department of Justice official was.

4 So at some point -- and then -- so at some point during
5 that process when -- even before I had transmitted my
6 determination to the Acting DNI on August 26, I understood
7 that the Department of Justice had been involved in looking
8 at the alleged activity.

9 I certainly knew by August 30th, when I was on the phone
10 call with the OLC attorneys, that OLC was involved and was
11 looking at the matter.

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[REDACTED]

1 [2:01 p.m.]

2 [REDACTED] Yeah, well, let's back up a bit. So
3 there's been public reporting that John DiMara (ph) is the
4 assistant attorney general for the national security division
5 went to the White House to review the call. Is that who you
6 understood to be the DOJ official who went?

7 MR. ATKINSON: I was not provided with the name of the
8 DOJ official.

9 [REDACTED] Okay. So as of August 22nd, when you --
10 the day after -- well, let's back up a bit. Jason Klitenic
11 on August 14th told you that you were going to be getting
12 this urgent concern complaint?

13 MR. ATKINSON: Yes. To be fair to Mr. Klitenic, he
14 learned about it because of the way the complaint came to my
15 office. There's nothing as far as I can tell improper about
16 how Mr. Klitenic came to have that information.

17 [REDACTED] What do you mean? It goes through the
18 hotline at the IG's office and ODNI general counsel receives
19 all of them immediately?

20 MR. ATKINSON: I think because of -- because of the way
21 the complainant initially expressed his or her concerns about
22 the call, in terms of going through the complainant's chain
23 of command, as part of that process, and it's -- as far as I
24 can tell, there's nothing inappropriate about it.

25 Mr. Klitenic learned that the complainant, because of

[REDACTED]

1 the complainant's -- Mr. Klitenic did not know this, but that
2 my offices would be receiving this disclosure because another
3 Intelligence Community element was alerting Mr. Klitenic to
4 the fact that there would be this disclosure. Because of the
5 way the complainant went about appropriately and in an
6 authorized way raising the complainant's concerns about the
7 call.

8 [REDACTED] All right. We'll have to unpack this in
9 our next round but our time is up and it is to the minority
10 now.

11 MR. NUNES: Thank you.

12 Inspector general, myself, and the minority leader,
13 Mr. McCarthy and Mr. Jordan sent you a letter on September
14 30th. Are you aware of that letter? Did you receive that
15 letter?

16 MR. ATKINSON: I'm aware of it and I received it, yes.

17 MR. NUNES: And did you review the letter?

18 MR. ATKINSON: I have reviewed the letter.

19 THE CHAIRMAN: Do you have a copy of the letter Mr.
20 Nunes?

21 MR. NUNES: We'll be glad to get you one. Sure.

22 You issued a press release on September 30th that same
23 day, a 3 plus page press release on the IC statement on
24 processing of whistleblower complaints.

25 MR. ATKINSON: Yes.

[REDACTED]

1 MR. NUNES: Are you aware of that press release?

2 MR. ATKINSON: I am.

3 MR. NUNES: It doesn't have any names. Who wrote this
4 press release?

5 MR. ATKINSON: So those are -- I consider those to be
6 internal deliberations to my office. I will say that I
7 authorized the press release.

8 MR. NUNES: You authorized it and who wrote it? Did you
9 write it or did you have other people -- when you say you
10 authorized it, does that mean you wrote it?

11 MR. ATKINSON: Again, I that goes to the internal
12 deliberations of my office which I'm not comfortable
13 disclosing, but I certainly authorized it.

14 MR. NUNES: Okay.

15 We'll go to Mr. Stewart or -- Mr. Conaway, do you
16 have --

17 MR. CONAWAY: He was going to talk about what you just
18 asked about so I will go after him.

19 MR. NUNES: Okay. Mr. Stewart.

20 MR. STEWART: Okay. Thank you.

21 Mr. Atkinson, thanks for being here. I'm going to be
22 brief, a number of reasons, you didn't get to have lunch, I'm
23 sure you're tired. In deference to my fellow colleagues as
24 well and I have to leave as many of us do. So I'm going to
25 ask quickly, if you don't mind.

1 I want to go back to the witnesses and make a point if I
2 could. You said witness number one heard the actual
3 conversation. And witness number two did not hear it, but
4 read the transcript. Is that true?

5 MR. ATKINSON: That's correct.

6 MR. STEWART: Okay. Witness number two then, who is the
7 one you interviewed, characterized it and I think you said
8 something that is key. You know, I'm going paraphrase, but
9 you stated there's no direct threat withholding aid, there is
10 no offer of quid pro quo, there was no direct mention of the
11 political campaign. He said you had to read between the
12 lines of this conversation. Those are your words, that was
13 -- I believe. Is that true?

14 MR. ATKINSON: I believe those were --

15 MR. STEWART: Your description of his words.

16 MR. ATKINSON: I believe those are his -- witness two's
17 words from the memorandum.

18 MR. STEWART: Read between the lines. And again, I
19 think that's very, very important here. I want you to know
20 that I have a transcript before me, as do you, as do all of
21 us. I have read the transcript numerous times. I have a
22 very, very different characterization of that, as do many
23 others apparently, because the FBI, the Office of Legal
24 Counsel and the DOJ interpret that very differently than this
25 witness did.

1 Now knowing that he himself described it as something
2 you had to read between the lines and with language as vague
3 as that, I don't understand why you would not request a
4 transcript of the phone call yourself so that you could
5 evaluate it.

6 MR. ATKINSON: I did request access to the transcript on
7 August 26th.

8 MR. STEWART: At the beginning of your investigation
9 when you were meeting with these witnesses, did you request a
10 transcript of the conversation?

11 MR. ATKINSON: No, and I think that's a fair question.
12 I think the first thing I wanted to do, and I know your time
13 is limited, but I want to explain my thought process. I
14 wanted to try to verify whether this complainant -- the
15 complainant was credible, because I didn't want to go running
16 off to the White House to ask for a transcript of a very
17 sensitive call if I didn't have reason to believe that, you
18 know, something wrong had happened.

19 And so I wanted to interview -- I wanted the complainant
20 interviewed. I wanted to understand what others thought of
21 the complainant's credibility. And I wanted to understand
22 from somebody who had firsthand knowledge what that person
23 recalled from the transcript. And by that time, that was
24 August 21st. My 14 days were up on August 26th and I just
25 didn't think it was likely that I'd be able to get access to

1 the transcript within those 4 or 5 calendar days remaining.

2 MR. STEWART: I understand. And I don't disagree with
3 your reasoning. I think it is terribly unfortunate, though.
4 We'll never know. Your thinking on this may have changed if
5 you'd been able to review this transcript, because as a
6 minimum this is as your witness said you have to read between
7 the lines on this. And there will be different
8 interpretations that's very clear.

9 Which brings me to a point I will just make quickly.
10 Well, at this point with the copy of the transcript that all
11 of us have, why should I care at all what the whistleblower's
12 intentions or interpretation, why should I care at all what
13 witness number two or the witness who heard this what their
14 interpretation of it is? We should make our own judgment of
15 that.

16 Do you think that's fair or do you think they have
17 information that we don't have that would cast this in a
18 different light?

19 MR. ATKINSON: I think that how intelligence officers
20 characterize this call is highly relevant because I think
21 intelligence officers know or have a sense of what's normal
22 in these types of calls.

23 MR. STEWART: Well the fact that -- and I don't want to
24 argue with you, I am just trying to understand this. The
25 fact that there were dozens of other people who also had

1 access to this information, who didn't do anything, they
2 didn't consider it worthy of a whistleblower complaint or a
3 referral to the FBI and they are professionals as well.

4 So there's either one of two things that's happened
5 there, either one of them is wrong and the others are trying
6 to hide it or they just interpreted it differently, i.e.
7 coming back to the comment you've got to read between the
8 lines on this. And we're capable of doing that as well as
9 they are, I would argue.

10 MR. ATKINSON: In fairness to the other individuals who
11 have not come forward, the complainant has talked about the
12 conversations that took place after the call. The call was
13 put into a highly secure system, where -- which is out of the
14 norm. There are individuals other than the complainant and
15 witness two were taking actions -- appear to be taking
16 actions in response to that call that suggests the call was
17 not normal.

18 And I know your time is limited. I just want to say as
19 a former prosecutor, it is extraordinarily rare,
20 extraordinarily rare that individuals -- and I'm not saying
21 this happened here, I'm not saying this happened. But it is
22 extraordinarily rare for individuals, particularly public
23 officials who engage in wrongdoing to be overt about their
24 criminal intent. I'm not saying that happened here. What
25 I'm saying is it's the job of investigators to determine that

1 intent. I could not do that in 14 days. I could never, ever
2 do a campaign finance fraud, a bribery investigation, a wire
3 fraud investigation, I could never do that in 14 days.

4 But I will tell you the reaction of these intelligence
5 professionals to what they heard from their colleagues, to
6 what they read in the transcript, that's highly relevant
7 information that went to -- and all I had to do in fairness
8 to me Congressman, is determine whether those allegations
9 appeared credible.

10 MR. STEWART: I understand, which is why I come back to
11 my first question, I think if you had access to the
12 transcript and didn't have to rely on their interpretation of
13 this, which they by their own words had to read between the
14 lines, I think that would have enlightened your
15 investigation.

16 Mr. Wenstrup is going to follow up on some of those
17 questions. I want to come back to one thing very quickly,
18 you said that it was highly irregular the way that they
19 stored this. Do you know that to be true or is that one
20 person's supposition or their understanding of it? How do we
21 know that every conversation now -- after the leaks of Mexico
22 and Australia how do we know that every conversation with
23 foreign leaders isn't stored now on a server? Do we know the
24 answer to that question?

25 MR. ATKINSON: In fairness to me there were a couple of

1 questions there.

2 MR. STEWART: Okay.

3 MR. ATKINSON: I do not know whether every conversation
4 is stored on those secured --

5 MR. STEWART: It is very possible that they are now.

6 MR. ATKINSON: With the information I had, the evidence
7 I had from the complainant and from witness two was that this
8 was unusual.

9 MR. STEWART: Okay. Fair enough. We don't know if they
10 are right or not, we just don't know.

11 MR. ATKINSON: In fairness to me again, all I had to
12 figure out was whether that information appeared credible and
13 the information about the stored -- the transcript or call
14 records being put on a secure server to me did appear
15 credible somewhat.

16 MR. STEWART: I understand. Mr. Atkinson again, I am in
17 no way impugning your integrity on this. You were working
18 with information. I'm just saying now that the question has
19 been raised we need to find out whether it's unusual or not.

20 Last thing and then I will turn my time over. There's
21 two things I really want to dive into. One of them is the
22 change of the IG policy and I wish I had time to go through
23 it. But I have got to tell you, if your press release, your
24 memorandum was intended to clarify, it did exactly the
25 opposite in my opinion. I think it's terribly confusing.

1 whereas I can read the previous policy. It's very clear.
2 The ICIG cannot transmit information via based on employee
3 secondhand knowledge. That's very clear to me.

4 It goes on to say, unsubstantiated assertions will not
5 be processed without firsthand information. Yeah, that's
6 changed. I'm going to allow you to respond to that, if you
7 could. Before I do, you began your conversation here by
8 saying that some of this complaint and information was based
9 on firsthand information. I read it, I can't see anything
10 that isn't source to I have been told or multiple sources
11 within my house. Point me to the thing in the complaint that
12 is based on firsthand information, will you, please?

13 MR. ATKINSON: I am unable -- really I'm unwilling to
14 point you to the places in the complainant's letter or the
15 classified appendix that relate to firsthand information
16 because that information could lead to the identity of the
17 whistleblower.

18 MR. STEWART: All right, well --

19 MR. ATKINSON: In terms of the changes to my office's
20 forms, I might agree with you that the prior forms were
21 clear, or in your words very clear. I will -- what you have
22 to understand is those forms were contrary to law. So no
23 matter how clear they might are be, they are contrary to what
24 Congress has said is the law.

25 And so I can't have clear forms that I give to

1 whistleblowers that add conditions that Congress never
2 intended. And I tried to make that -- my office tried to
3 make that clear in the press release. To respond to your
4 question, Ranking Member Nunes, that press release was
5 prepared by people in my office. So no one outside of my
6 office participated in drafting or approving that press
7 release. Sorry, Congressman Stewart.

8 MR. STEWART: Well, and I guess it just begs the
9 question I think you're right in the sense that your previous
10 policy probably was in conflict or at least there was a
11 discrepancy or deficiency with what Congress probably
12 intended. The questions that are begged now is the timing on
13 it is troubling as a minimum. And it begs questions such as
14 why did we make the change right now, did we make the change
15 as a result of this complaint, because if it did that would
16 be informative for us. Who was involved with those
17 conversations. I will allow you to, if you want, comment on
18 that, but --

19 MR. ATKINSON: I would like to comment.

20 MR. STEWART: Again, I think that the timing of it is
21 curious for many people. And I'm not speaking just Members
22 of Congress, I just think the American public is curious
23 about that. And if we want to have this be a credible
24 investigation those are some of the questions that many of
25 them are going to wonder about.

MR. ATKINSON: One of the core values of my office is transparency. And I know it's unusual with an organization involved in the Intelligence Community, but one of our core values is transparency. The timing is unusual because I learned that our form was contrary to law as a result of the press inquiries into this matter. Those forms have been under review for the past 4 to 6 months.

But when it came to my attention from one of the media inquiries that we had a form that required individuals to have firsthand information before they could file a complaint, I did two things. I said, first of all, is that what our form says? And then the second thing once they told me, yeah, that's what our form says, we need to change that, because that's -- that's not consistent with what Congress intended.

So the timing is unfortunate. It looks suspicious, I get that. But I'm here to tell you I realized in the last couple weeks that he with were giving information to whistleblowers that is contrary to the law. And what I did was I fixed it or I tried to fix it immediately. What I should have done was I should have explained when we changed the form why we were changing it.

I should have been more transparent about the reasons and the motivations for the change in the forms. That's a lesson learned and it is a hard lesson learned because we had

1 a bad couple days in the press and hopefully -- that doesn't
2 matter, we'll take bad days in the press, but hopefully we
3 fixed the problem.

4 MR. NUNES: Mr. -- Dr. Wenstrup.

5 DR. WENSTRUP: Thank you. Thank you, Mr. Atkinson,
6 I do appreciate you being here. You know, I am not a lawyer,
7 I'll make that claim as Mr. Heck did and so I have some legal
8 questions along the way and also some process questions for
9 you. But I will say, you know, I will tell you if I'm in a
10 situation like I was in war where I'm getting sensitive
11 information, or things that should be private, or in many
12 cases top secret, classified, whatever and there's leaks, I'm
13 going to change my process.

14 So I don't find that particularly out of the norm, if
15 indeed it was out of the norm, which I don't know for sure.
16 You know, so let me get into some of these questions as a
17 nonlawyer. But can you give me the definition of hearsay?

18 Let me ask you this more specifically, I've always been
19 told the media reports are nothing more than hearsay and not
20 admissible in court. So are media reports hearsay?

21 MR. ATKINSON: I believe the definition of hearsay is an
22 out of court statement admitted for the truth of a statement
23 or roughly -- that's one definition that I might --

24 DR. WENSTRUP: Is it admissible in court? I'm just
25 curious, because --

1 MR. ATKINSON: If It's admitted for the truth of the
2 matter. It is an out-of-court statement admitted for the
3 truth of the matter.

4 DR. WENSTRUP: Well, it seems to be certainly not
5 anything that you -- you probably couldn't convict somebody
6 of something on hearsay, you'd have to come up with facts,
7 let's just put it that way. We talked about reading between
8 the lines. Let me just clarify. Reading between the lines
9 is an interpretation that someone has. Correct?

10 MR. ATKINSON: Reading between the lines was a phrase
11 that witness two used to describe how he came to infer from
12 the President's statements that there was a solicitation.

13 DR. WENSTRUP: Therefore an interpretation, that's
14 really what you're saying. As you describe it --

15 MR. ATKINSON: From a foreign government for assistance
16 in a U.S. election.

17 DR. WENSTRUP: It's not factual, it is an
18 interpretation, I think we can all agree with that. I want
19 to go to the term credible as it relates to your job, which
20 is a very tough job to determine really if the person is
21 credible, if the story may be credible.

22 But in this situation, let's be clear, it's not a proven
23 fact or proven true at this point. Right? Your level, when
24 it comes to you, it's not a proven fact, because you're
25 asking for investigations after this, so why, because it's

1 not proven true. And it's just an allegation that you found
2 to be credible or from a credible source. I will give you
3 that. But I just want it to clarify, it's not proven factual
4 or true just because you determined this allegation and
5 person to be credible.

6 MR. ATKINSON: My task --

7 DR. WENSTRUP: It's really a yes or no.

8 MR. ATKINSON: Well, it's -- it's harder than that
9 because it gets to the whole process of what my job was to do
10 in that 14 days and what would follow in terms of that
11 investigation.

12 DR. WENSTRUP: I'm giving you what your job was to do in
13 that 14 days was to determine whether you felt, you felt the
14 person and the allegations were credible. Felt.

15 MR. ATKINSON: It wasn't an emotion, it was based on
16 evidence.

17 DR. WENSTRUP: You believed, you believed then. Okay?

18 MR. ATKINSON: I determined.

19 DR. WENSTRUP: But it is not factual or true at this
20 point. You hadn't even seen the transcript.

21 MR. ATKINSON: I'm just going to quibble a little bit.
22 It is factual in the sense that these are facts that the
23 witnesses say. Now is that actually true? We don't know.
24 That's what the further investigation has to determined.

25 DR. WENSTRUP: You answered my question. You answered

1 my question. No what was fact is that they came forth with
2 these allegations. What the fact -- what was fact is this
3 person served in such and such a role.

4 MR. ATKINSON: We --

5 DR. WENSTRUP: What is fact is that the person is
6 telling you that somebody else this. I will give you that.
7 But let's just be clear, the allegations themselves had not
8 been proven factual or true and you hadn't even seen the
9 transcript so how could they?

10 MR. ATKINSON: But --

11 DR. WENSTRUP: But I want to refer to something else
12 here. It's on page 5 and this is what you sent to us, August
13 26th and I'm just going it to read it for the record.

14 Based on the information obtained from the ICIG's
15 preliminary review I decided that access to records of
16 telephone call was not necessary to make my determination
17 that the complaint relating to the urgent concern appears
18 credible. In addition, given the time consumed by the
19 preliminary review, together with lengthy negotiations that I
20 anticipated over access to and use of records of the
21 telephone call, particularly for purposes of communicating a
22 disclosure to the congressional Intelligence Committee, I
23 concluded that it would be highly unlikely for the ICIG to
24 obtain those records within the limited remaining time
25 allowed by the statute.

1 I also understood from the ICIG's preliminary review
2 that the National Security Council had already implemented
3 special handling procedures to preserve all records of the
4 telephone call. My question to you, when you say within the
5 limited remaining time, my question is should we consider
6 changing the timeframe that you're put under in this
7 situation?

8 MR. ATKINSON: That is a really good question. I think
9 that -- I think that the statutory framework for this type of
10 matter should be looked at and should be seriously
11 considered.

12 Now, I was able to do what the statute required of me
13 within those 14 days. But that said, it's -- in a matter
14 like this, it's a very challenging --

15 DR. WENSTRUP: I would agree. I would agree with you.
16 And if I could read between the lines of what you said here,
17 you were rushed to make a decision.

18 MR. ATKINSON: No. I wasn't --

19 DR. WENSTRUP: I'm reading between the lines. That's my
20 interpretation. Okay? You just said --

21 MR. ATKINSON: Is that a fact?

22 DR. WENSTRUP: No, because I'm reading between the
23 lines. So I'm glad you agree with me then on what I was
24 driving at before. So we're getting to the heart of some of
25 these matters in this whole process.

1 My next question for you -- I'm on the next question, if
2 I can. Again, I'm not a lawyer, so in America is a candidate
3 that's running for office, any office, immune from
4 investigation for wrongdoing or corruption?

5 MR. ATKINSON: No, not to my knowledge.

6 DR. WENSTRUP: Okay. So my next question, is corruption
7 a public policy matter? Seems to me we write legislation
8 about corruption. So is corruption a public policy matter?

9 MR. ATKINSON: What do you mean by public policy matter?

10 DR. WENSTRUP: Well, I'm not the one who used that
11 before. So someone said that this whole conversation was not
12 dealing with public policy. Corruption to me is a public
13 policy.

14 MR. ATKINSON: I will tell you --

15 DR. WENSTRUP: We write laws on corruption. Right?
16 Aren't laws public policy? I'm not the lawyer so help me
17 out, here.

18 MR. ATKINSON: Well, I will tell you that one of the
19 things that made this allegation so urgent for me was that
20 the activity, as described in the call between President
21 Trump and President Zelensky to use a prosecutor's word
22 appeared corrupt, it appeared corrupt.

23 DR. WENSTRUP: Okay. Now, let me go to the next
24 question. You can say it appeared corrupt. So corruption is
25 a public policy matter then. So why not look at things like

1 extradition, right? We have relationships with other
2 countries that deal with extradition where hey, you know,
3 you've arrested a person or you've got a person in your
4 country that broke the law in our country, and we have
5 treaties where they can arrest that person and send them to
6 the United States. Is that correct?

7 MR. ATKINSON: There are a couple of questions there.
8 I'm sorry.

9 DR. WENSTRUP: No, there's one really.

10 MR. ATKINSON: Okay.

11 DR. WENSTRUP: We have relationships where we can
12 extradite people, people can be extradited from other
13 countries because we have a relationship with them where they
14 can then say we will arrest this person and send them to the
15 United States for prosecution, that does happen. Correct?

16 MR. ATKINSON: The Department of Justice has mutual
17 legal assistance agreements and mutual legal assistance
18 treaties that provide for extradition.

19 DR. WENSTRUP: Okay. So this is where I get confused.
20 So how come -- so can the chief law enforcement officer in
21 the United States be able to work with foreign law
22 enforcement concerning crimes involving citizens of both
23 countries? Should they be able to have conversations?

24 MR. ATKINSON: Should the Attorney General be allowed to
25 have conversations with his or her counterparts?

[REDACTED]

1 DR. WENSTRUP: Yeah.

2 MR. ATKINSON: I believe that's allowed.

3 DR. WENSTRUP: All right. Well, then this is where I --
4 why can't the President?

5 MR. ATKINSON: It depends on the substance of the
6 communication.

7 DR. WENSTRUP: That's fine, that's fine that you've
8 answered my question there. I have other questions, but I'm
9 going to defer to Mr. Conaway.

10 MR. NUNES: Just so I understand your definition of
11 corruption here so is it corrupt for any campaign to get --
12 Republican or Democrat to get dirt from another foreign
13 government?

14 MR. ATKINSON: I believe it is. My understanding of the
15 law is that foreign nationals are not supposed to contribute
16 to U.S. campaigns.

17 MR. NUNES: Okay. Well, Bob Mueller decided not to
18 indite the Clinton campaign, just so you know, on campaign
19 finance.

20 Mr. Conaway.

21 MR. CONAWAY: Thank you. The whistleblower's hotline --
22 dated August -- form, a computer generated form that you've
23 given us attached to [REDACTED] cover letter to you, transmitting
24 the overall package. You redacted a bunch of information out
25 of it, principally to protect identity. Can we assume all of

[REDACTED]

1 that was filled out correctly that he or she answered the
2 questions appropriately on that form?

3 MR. ATKINSON: Yes.

4 MR. CONAWAY: And the last page of that, the next to
5 last page of that, is a [inaudible] I have previously
6 disclosed or in disclosing violation of rights here [redacted] checks
7 the box other government and agencies involved and then [redacted]
8 dates it August 26th. I'm confused about the date, that is
9 [redacted] explanation, if we were actually to read that explanation
10 would the date of August 26 make sense? For something [redacted]
11 filing on the 12th or 13th.

12 MR. ATKINSON: Yeah, I don't know why the complainant
13 dated that August 26, 2019.

14 MR. CONAWAY: So as part of your investigation reviewing
15 this that didn't bother you, it was dated 2 weeks later the
16 same date --

17 MR. ATKINSON: I'm sorry, I can't say that we noticed
18 that, okay.

19 MR. CONAWAY: Okay, that's fine. In your
20 conversation --

21 MR. ATKINSON: So Congressman, my understanding is that
22 it could be [redacted] just -- he or she just got the wrong month.
23 That might have been intended to be 7/26/19 in terms of when
24 it was disclosed, but I don't -- I don't know why he or she
25 put 826.

1 MR. CONAWAY: But your team knows what [REDACTED] wrote in the
2 explanation. There is a redacted line where [REDACTED] explains what
3 [REDACTED] did.

4 MR. ATKINSON: Yes, we do know when --

5 MR. CONAWAY: We don't have that, but you do.

6 MR. ATKINSON: Correct.

7 MR. CONAWAY: If you would read that, do you think you
8 would be okay with what that did or if you would get back to
9 us if that makes sense.

10 MR. ATKINSON: Yes. We redacted that because, I'm sure
11 you know this, but it relates to employer --

12 MR. CONAWAY: Yeah, yeah, yeah. It helps us understand
13 who [REDACTED] is.

14 MR. ATKINSON: Yes.

15 MR. CONAWAY: But just the date's out of synch. So in
16 your conversation with the office of leg counsel or
17 legislative whatever that dealing -- that was making the
18 decision, you were on a phone call with them. During that
19 call were you able to fully present your case as to why you
20 thought you had jurisdiction, that this was urgent concerns,
21 were you restricted in your ability it to make your case in
22 that regard at all?

23 MR. ATKINSON: No, I was not restricted.

24 MR. CONAWAY: Sir, again?

25 MR. ATKINSON: I was not restricted.

1 MR. CONAWAY: Okay. So you got your say in and then
2 subsequent they made the decision or you could tell from that
3 call they may have already made the decision, but you at
4 least had your shot at communicating with those guys?

5 MR. ATKINSON: I think that's fair, yes.

6 MR. CONAWAY: Okay. You interviewed the two
7 supervisors. And I know you can't give us a lot of
8 information about those guys, because we're not trying to
9 find out who the whistleblower is, but two supervisors. One
10 supervises the other? I'm trying to understand the
11 relationships between the complainant and two different
12 supervisors. Does this complainant in fact work for two
13 different people directly or what was the relationship with
14 the quote, unquote "supervisors?"

15 MR. ATKINSON: I will say that both supervisors were
16 very familiar with the complainant's work.

17 MR. CONAWAY: Okay, but -- familiar or they actually --
18 he or she actually work for them currently?

19 MR. ATKINSON: I'm not sure of the exact chain of
20 command, but both would have been in the complainant's chain
21 of command.

22 MR. CONAWAY: At some point. Okay.

23 MR. ATKINSON: At the point that we interviewed him.

24 MR. CONAWAY: So it is hard to read because it is so
25 heavily redacted, but when you read one of the supervisors

1 was particularly glowing in his or her evaluation of the
2 complainant. But the other one was okay, but had some
3 concerns about the way the whistleblower had done that.

4 Nothing in your interview said, did you look at the
5 supervisor's potential biases the way you did witness two?
6 In other words witness two you specifically asked for what
7 are your biases -- it is all redacted of course, but did your
8 two interviewers look at the potential biases for either or
9 both of those supervisors as to what their mind-set was as
10 they looked at the glass half empty, half full.

11 MR. ATKINSON: The best information is for the
12 memorandum for interview for those two supervisors, but I did
13 not see anything in the --

14 MR. CONAWAY: I didn't either.

15 MR. ATKINSON: -- memos that talked about most of that
16 issue.

17 MR. CONAWAY: Would that have been -- is that a fair
18 question to ask, particularly given the information, one of
19 them I'd have loved having this guy writing my job reviews.
20 I wish I could do that good a job and earn that. But would
21 that have been a fair question for the interviewers to have
22 asked of these two during their conversations? Would it be
23 inappropriate to look at that?

24 MR. ATKINSON: I think it would -- there would be
25 nothing inappropriate about asking the question.

1 MR. CONAWAY: Okay. Because since that you used as a
2 part of your [inaudible] to chance you used their
3 supervisor's comments about the complainant in helping you
4 decide the complainant personally was credible and that the
5 complaint was credible. Is that a fair assessment of the
6 impact that the supervisors had on your investigation?

7 MR. ATKINSON: Yes.

8 MR. CONAWAY: Okay. And then last thing I've got, we
9 were going through -- [redacted] you asked a question in a
10 way that caused me to think about it. Turns out the
11 complainant's own biases [redacted] described it in [redacted] report and
12 you asked the question. So there were two official pieces
13 that officially worked with them and then [redacted] a registered
14 Democrat.

15 And I'm looking at the complainant's interview and it
16 reads first potential for bias. It says, first complainant
17 worked closely with and then it's all redacted. And then the
18 second one it just says second, and that's all redacted. And
19 the final thing is complainant is a registered Democrat. And
20 I didn't think that the complainant necessarily worked for
21 both. The idea that the complainant had some sort of
22 relationship with a Presidential candidate, registered
23 Democrat and worked for one of the candidates. Those were
24 the two that were acknowledged. And one you didn't believe
25 should be acknowledged because it would lead to a

[REDACTED]

1 identification of the complainant.

2 Maybe we'll have to read the question back, but they
3 were both official working relationships, were they? On the
4 complainant, on the redacted form, if with we could read it
5 ourselves, could we see that both of these things were in
6 fact current working relationships?

7 MR. ATKINSON: No. I don't think you should assume
8 that, no.

9 MR. CONAWAY: Okay. All right.

10 [REDACTED] If I could just clarify, I think what I
11 did ask and correct me if your recollection is different is
12 whether those two things occurred during the complainant's --
13 in the course the complainant's official working duties or
14 working responsibilities. In other words, they weren't
15 personal relationships they were professional relationships.

16 MR. CONAWAY: Okay. All right. And so that is how I
17 recalled it. I didn't recall that having an association with
18 the Presidential candidate was a working relationship. And
19 you would have known that by asking the question that way
20 that I wouldn't have, because all I've got is second and then
21 all redacted. So both of them were either current or
22 previously working relationships?

23 MR. ATKINSON: That's correct.

24 MR. CONAWAY: Okay. All right. Thank you.

25 MR. NUNES: Mr. Hurd.

[REDACTED]

1 MR. HURD: Thank you, ranking member.

2 Do we know why, did the whistleblower tell us or did
3 your team ascertain this in the investigation why witness one
4 and witness two told the complainant about the details of the
5 July 25th call?

6 MR. ATKINSON: The best information for that is in those
7 memorandums of interviews by the complainant and in that
8 memorandum of conversation. My recollection is that I would
9 have to -- those are the best sources.

10 MR. HURD: And I've read that. But was it water cooler
11 talk, what it -- like, what was the reason to have this
12 conversation?

13 MR. ATKINSON: My --

14 MR. HURD: I know that complainant one or witness one or
15 witness two said that they were concerned or things like
16 that. But why did they feel that they had to reveal this to
17 the complainant?

18 MR. ATKINSON: Well, in the memorandum -- I can only go
19 on with what the complainant said or what witness two said,
20 but in the memorandum of conversation, which is exhibit 1, in
21 the second paragraph, the complainant writes, quote, "The
22 official described the call as crazy, frightening and
23 completely lacking in substance.

24 MR. HURD: So that doesn't attribute motivation for
25 telling that piece of information to this particular

1 individual. Like, did the complainant -- did witness one go
2 home and tell the spouse the same thing? Right? Like, was
3 this just general frustration because we're buddies and they
4 called the person on the phone? Like, understanding the
5 motivation of revealing that, you know, how they felt to that
6 specific individual.

7 MR. ATKINSON: I think that what I can say is that the
8 complainant and witness one had a professional relationship,
9 and they shared subject matter expertise. And witness one I
10 think thought it was important for the complainant to know
11 about what happened on the call in order for the complainant
12 -- in part in order for the complainant to perform the
13 complainant's official duties.

14 MR. HURD: Got you.

15 MR. ATKINSON: And I -- but the second part was I think
16 was not -- in addition to that professional relationship, I
17 think my sense is from reading these materials is that
18 because the call was so out of the ordinary that also
19 contributed to witness one sharing that information with the
20 complainant.

21 MR. HURD: Did witness one and witness two know that the
22 whistleblower was going to blow the whistle before the
23 whistle was actually blown?

24 We know now that that's the case. But prior, did
25 witness one and witness two have previous knowledge that the

1 whistleblower was going to be filing a complaint.

2 MR. ATKINSON: The answer to the best of my knowledge is
3 no. In fact, one of the reasons we were reluctant to talk to
4 witness one was because the complainant let us know that
5 witness one did not know that the complainant had filed a
6 disclosure.

7 And the complainant felt that witness one would be very
8 reluctant to participate in the interview -- in an interview
9 because of the nature of the subject matter and other -- and
10 just the general unwillingness to get involved in something
11 like this.

12 MR. HURD: How do we know that the activity described in
13 the July 25th call was for political purposes?

14 MR. ATKINSON: I think you have to -- again, what I did
15 was I looked at the -- keep in mind, I didn't have the
16 transcript, but what I was looking at were the words that the
17 complainant reported that witness one had said and then the
18 words that witness two used describe the call.

19 And both witness one and witness two, witness one
20 according to the complainant, and witness two took away from
21 the call, one listening in real-time and the other reading a
22 transcript that the call was or appeared to be politically
23 motivated.

24 MR. HURD: And what was the political motivation?

25 MR. ATKINSON: The gist of the political motivation

1 seemed to be to use the Ukrainian Government to dig up
2 political dirt on one of the President's domestic political
3 rivals and to collect political information related to the
4 CrowdStrike server that might be beneficial to the Republican
5 Party, because it could expose the Democratic party as having
6 allegedly interfered in the 2016 election.

7 MR. HURD: But there was no reference that they wanted
8 to run an ad, or put something in a mail piece, or run some
9 kind of political campaigning material based on that
10 information?

11 MR. ATKINSON: You mean the Ukrainians?

12 MR. HURD: No. If we're talking about political
13 activity, right, and collecting information, was there any
14 indication of how that information was going to be used?

15 MR. ATKINSON: Well, one indication was it was going to
16 be used to be given to Mr. Giuliani or to the Attorney
17 General. What they were to do with the information is
18 unclear. And again, this gets to the point that I understood
19 that the investigation would continue after the 14-day
20 period. A.

21 And I know that Congressman Stewart has left, but what
22 you all have to understand is if I had the transcript of the
23 call during those 14 days, I would have expedited my
24 investigation.

25 MR. HURD: Sure. I recognize it was a snapshot in time

1 what you're doing. And my next question is to ensure that
2 you or anyone else is not put in this situation. And my
3 question is, do you know why when the IC whistleblower
4 statute was written, it was written in a way to only transmit
5 complaints to Congress if the information was found to be
6 urgent. Do you know why it was written that way at the time?

7 MR. ATKINSON: My understanding from the statute and the
8 way it had been applied during my tenure and over the past 15
9 months or so, and as I understand it, since my office was
10 established in 2010, is that the whistleblower information is
11 transmitted to the intelligence oversight committees
12 regardless of whether the inspector general finds it urgent
13 or not.

14 MR. HURD: But that's not actually the statute, though,
15 now. Right? Is that correct? That's been practiced rather
16 than the actual statute.

17 MR. ATKINSON: No, my understanding from the statute is
18 that even if I deem it not to be credible or not to be an
19 urgent concern it still -- the director has 7 days, but that
20 information still goes to the committees. In other words, if
21 I find something to be not credible, I don't sensor that
22 information from the committees.

23 MR. HURD: I have a different understanding than you,
24 but I think we're in agreement. Right? I'm trying to
25 understand, is there a scenario in which it would be

1 negatively impacting the Intelligence Community if
2 information that was provided to the ICIG through the
3 whistleblower process, if it was deemed not urgent, if there
4 is an intelligence -- a blow back from the Intelligence
5 Community for transmitting that information to Congress. Do
6 you have any scenario or thought on when that would be a
7 problem?

8 Because I'm of the opinion all information that is
9 communicated through whistleblower channels should be
10 transmitted to this committee whether or not you deem it
11 urgent.

12 MR. ATKINSON: I agree with that. I think that one
13 reason that the Director of National Intelligence might have
14 7 days to make comments is to alert the committees to any
15 type of blow back that you're talking about.

16 MR. HURD: Copy, copy, that's helpful.

17 When you wrote the September 9th letter to HPSCI, did
18 the acting DNI know you were writing that letter?

19 MR. ATKINSON: Yes.

20 MR. HURD: And what was his response?

21 MR. ATKINSON: To add some context, I had been in
22 discussions with ODNI's general counsel about the fact that
23 the congressional intelligence committees have not been
24 notified of the filing. And I was asking for direction from
25 the acting DNI to give to the whistleblower to come to the

1 committees directly, and I -- but I did not get that
2 direction from the acting DNI, and so that's what then led to
3 that letter.

4 MR. HURD: Were you told not to share the letter?

5 MR. ATKINSON: Was I told not to send a letter to the
6 congressional intelligence committees?

7 MR. HURD: Yes.

8 MR. ATKINSON: No, I was not.

9 MR. HURD: So when the DNI I guess it was the Office of
10 General Counsel, told you the transmittal of the complaint
11 was not required based on their understanding. Did anybody
12 tell you not to share the information?

13 MR. ATKINSON: So I think we're talking about two
14 different things.

15 MR. HURD: New question.

16 MR. ATKINSON: Okay. Did anybody ask -- tell me not to
17 share my letter with the committees?

18 MR. HURD: No. So when you sought, I think it was at
19 the legal counsel for DNI, their opinion and they came back
20 and said, this does not meet what they thought was the
21 statutory needs to transmit the complainant information to
22 Congress. Who made that decision?

23 MR. ATKINSON: The Department of Justice's Office of
24 Legal Counsel determined that it was not required --

25 MR. HURD: Gotcha.

1 MR. ATKINSON: The acting --

2 MR. HURD: So I misspoke. So the Department of Justice.

3 MR. ATKINSON: That's okay. Right. And then the acting
4 DNI -- so it was not required, but that left the acting DNI
5 with discretion to transmit it. The acting DNI exercised his
6 discretion not to transmit that information to the
7 congressional intelligence committees.

8 MR. HURD: And you were told -- so did someone tell you
9 not to share it?

10 MR. ATKINSON: I was told that I could not share the
11 subject matter, even the general subject matter of the
12 complaint. What they didn't prevent me from doing was
13 disclosing the fact of an urgent concern filing to the
14 intelligence committees.

15 MR. HURD: Good copy. Thank you, sir. Mr. Ranking
16 Member, I yield back what time we may or may not have.

17 MR. CONAWAY: [Inaudible] does the whistleblower act
18 protect them in the circumstances the way it protects a
19 complainant or are they out there unprotected in terms of
20 their participation in this investigation?

21 MR. ATKINSON: Any individual who cooperated in our
22 investigation is in the same situation as the complainant
23 right now.

24 MR. CONAWAY: And that's some different law that says it
25 or that whistleblower itself says that those -- get fixed is

1 that clear or is that your interpretation, because obviously
2 you started your conversation today by saying I'm not going
3 to give you these names until I am dead level certain that
4 they are protected. If they are already protected under the
5 law clearly I wonder why you started that conversation the
6 way you did?

7 MR. ATKINSON: Two different things. One is because the
8 law doesn't permit me to disclose their identities because
9 they've asserted confidentiality until they waive their
10 confidentiality I am not permitted to share their identity.

11 MR. CONAWAY: If they get outed are they protected?

12 MR. ATKINSON: That's the second question. Normally
13 whistleblowers who file matters with respect to urgent
14 concern there is a statutory protection there, in the urgent
15 concern portion of the statute. But the Department of
16 Justice has said that statute does not apply. That provision
17 statute does not apply which suggests that the
18 whistleblower protection in that part of the statute doesn't
19 apply. Okay?

20 Now there's another part of our statute that says anyone
21 who reports waste, fraud or abuse not just an urgent concern,
22 but anyone who reports waste, fraud or abuse are protected
23 from reprisal or threat of reprisal.

24 MR. CONAWAY: But technically neither one of those two
25 reported it. They got caught up in the reporting --

1 MR. ATKINSON: Yes, but they --

2 MR. CONAWAY: I want to make sure that we fix our rule
3 as law that they are protected.

4 MR. ATKINSON: Because they participated in an
5 investigation they normally would be covered by the reprisal
6 protections of the general part of the statute.

7 But -- and this gets confusing so let me be clear, the
8 Office of Legal Counsel has said, my jurisdiction under the
9 urgent concern process is identical to my jurisdiction under
10 the investigation portion of the statute. Which means that
11 the reprisal protection doesn't apply under the urgent
12 concern provision, it also doesn't apply under the general
13 provision.

14 So what I believe right now is that the complainant and
15 any individual who cooperated in our investigation may have
16 no statutorily enforceable protections. I have asked the
17 Department of Justice's Office of Legal Counsel to clarify
18 that, because it is so concerning that these whistleblowers
19 may not have those protections.

20 MR. CONAWAY: Thank you.

21 [REDACTED] All right. Thank you.

22 I just have a couple of follow of questions to some of
23 the ones from the last round before I will ask some of our
24 Members. You just said a minute ago that if you had received
25 the transcript of July 25th call during the course of your

1 preliminary review you would have expedited your
2 investigation. What did you mean by that and why?

3 MR. ATKINSON: Well, I meant that the call to me as a
4 former prosecutor suggested that there was evidence of a
5 solicitation of foreign assistance in a U.S. election and it
6 was evidence that came directly from the President.

7 And so to have the President's own words, even if it is
8 a memo and not the electronic transcript would have been very
9 relevant and significant evidence as part of the
10 investigation and it would have confirmed a large part what
11 complainant and witness one and witness two reported about
12 the call.

13 [REDACTED] Mr. Hurd was asking you about the
14 motivation of witness one. And I would just point back to
15 Exhibit 1 and the second sentence of the first paragraph
16 where the complainant said, the official -- meaning witness
17 one -- who listened to the entirety of the phone call was
18 visibly shaken by what had transpired and seemed keen to
19 inform a trusted colleague within the U.S. national security
20 apparatus about the call."

21 I don't know if that's what you were referring to in
22 describing the motivation for the conversation in the
23 aftermath of the call.

24 MR. ATKINSON: Yeah. I don't know whether I was
25 referring to that or not. But that does explain to some

[REDACTED]

1 extent why the witness one reached out to the complainant.

2 [REDACTED] Okay. And just a couple things about
3 witness two to follow on to some of the questions from the
4 last round and the read between the lines. If you go to page
5 39 of your Bates stamped submission from last night. The
6 sentence about read between the lines says witness two had no
7 recollection of an explicit reference to the 2020
8 Presidential elections, but it seemed implicit when witness
9 two quote "read between the lines" unquote of what was said.

10 So the read between the lines just pertains to the
11 specific 2020 Presidential elections, is that your
12 understanding? Not the entire -- that witness two was not
13 saying that witness two was reading between the lines for
14 everything that witness two said, it was simply for that
15 statement?

16 MR. ATKINSON: I think the best person to ask that is
17 witness two, but -- but that -- it seems like witness two is
18 reading between the lines to suggest that the request for
19 assistance related to the 2020 Presidential election, even
20 though the 2020 Presidential election wasn't explicitly
21 referenced in the call.

22 [REDACTED] Right. So doing an investigation on
23 Biden, it is implicit that that would be helpful to President
24 Trump as Biden is a Presidential candidate for the opposing
25 party, is that what you understood it to mean?

[REDACTED]

[REDACTED]

1 MR. ATKINSON: One of the urgent -- one of the reasons
2 this was urgent to me was because it did appear to relate to
3 one of the current candidates for the 2020 election, yes.

4 [REDACTED]: Okay. And if you go to the last paragraph
5 on the page before of that, it says, in hindsight it became
6 clear to witness two that there was a quote "quid pro quo"
7 unquote situation happening due to the sudden freezing of
8 foreign military and congressional assistance to the Ukraine
9 without explanation. This memorandum is essentially a
10 memorialization of the notes of the interview. Is that
11 right?

12 MR. ATKINSON: Correct.

13 [REDACTED]: And so if something is in quotes then that
14 would indicate that that was something that the witness
15 specifically said?

16 MR. ATKINSON: I would have to ask the individual who
17 wrote the memo, but that would be my understanding.

18 [REDACTED]: All right. And finally, just the last
19 thing on witness two, there was some questioning as to why
20 only one whistleblower came forward. And I just want to
21 point you to page 40 in the second paragraph where there is
22 some discussion about whether witness two would have come
23 forward. And without reading the whole thing, was it your
24 office's impression that witness two was scared to come
25 forward for fear of some sort of retaliation or reprisal?

[REDACTED]

1 MR. ATKINSON: I don't know that scared is the right
2 word. I think that witness two was -- unless witness two
3 used that word, but this strikes me as someone who's very
4 reluctant to get involved.

5 [REDACTED] Well, I will leave one quotation here.
6 And this is in quotes, "if I unilaterally try to make an
7 issue out of it the only person impacted is me and not for
8 the better." unquote.

9 MR. ATKINSON: So, you know, the guess that that is what
10 it says. you know. My experience is that many people are
11 reluctant to get involved in these investigations. It's
12 extraordinarily difficult to get people to speak up in the
13 Intelligence Community because of how career damaging it can
14 be and because of oftentimes how little is done in response
15 to the complaint.

16 So the whistleblowers get the worst of both worlds.
17 They suffer career negative consequences and the wrongdoing
18 that they report goes unaddressed.

19 And so -- and you have to understand that you're dealing
20 with individuals in this situation who are very accomplished
21 professionals. And they are in unique situations in our
22 government and it's really, really hard to get in those
23 positions. It takes a lot of work and most people having put
24 in that work are reluctant to put, you know, their
25 livelihoods in jeopardy.

1 THE CHAIRMAN: Inspector general, on that point, you're
2 aware that the President has referred to these other
3 witnesses as variably, in various terms traitors or spies?

4 Are you aware of that.

5 MR. ATKINSON: I have seen some of the President's
6 comments, yes.

7 THE CHAIRMAN: That he in fact said that there used to
8 be a way of treating traitors and spies, you know how we used
9 to treat traitors and spies, what he's referring to there?

10 MR. ATKINSON: Do I know what he's referring to there?

11 THE CHAIRMAN: Yes.

12 Mr. ATKINSON: I do not know what he's referring to
13 there.

14 THE CHAIRMAN: We used to execute traitors and spies
15 right? That was the clear import of what he was saying.

16 MR. ATKINSON: So, I do not know what the President was
17 saying, but that was my impression as well.

18 THE CHAIRMAN: So these other witnesses who were already
19 apprehensive about speaking out, hearing that from the
20 President of the United States, would that be the
21 confirmation of their worst fears about retaliation?

22 MR. ATKINSON: It probably goes beyond their worst
23 fears.

24

25

1 [3:01 p.m.]

2 THE CHAIRMAN: Now, you mentioned repeatedly and all too
3 accurately, you had 14 days to do this investigation. That's
4 the statutorily prescribed period. So when we ask questions
5 about did you do this and did you do that, it's not implied
6 criticism that you didn't do more. You only had 14 days, and
7 you did an awful lot in 14 days.

8 Am I correct in my understanding that had the Department
9 of Justice not weighed in to say you have no jurisdiction,
10 you would have continued the investigation after the 14 days?

11 MR. ATKINSON: Either by myself or with the FBI or other
12 inspectors general, yes. I intended to continue the
13 invest -- I intended to start a full-blown investigation and
14 to work on it.

15 THE CHAIRMAN: But the Department of Justice through the
16 Office of Legal Counsel not only prevented you by issuing
17 that opinion from continuing your investigation, they also
18 prohibited you from even telling Congress the subject of the
19 complaint?

20 MR. ATKINSON: I don't know that the Office of Legal
21 Counsel prevented me from informing the committees of the
22 subject of the complaint. The --

23 THE CHAIRMAN: The Acting Director did.

24 MR. ATKINSON: The Acting Director would not authorize
25 me to disclose the substance of the complaint. In the

1 world -- in the world that I live in in the Intelligence
2 Community, if I don't have authorization, I land in the same
3 place with regard to whether I'm prohibited from doing
4 something.

5 THE CHAIRMAN: So when the Director rejected your
6 request to inform the committee even of the subject matter,
7 let alone provide the committee with the complaint, you took
8 that effectively as a decision that you would not be able to
9 inform the committee of either the complaint or even the
10 subject matter of the complaint?

11 MR. ATKINSON: I took the position that I was not
12 authorized to disclose the general subject matter or the
13 specific subject matter. And I made the decision, as I think
14 I talked the last time I was here, that I would not risk the
15 potential consequences of making an unauthorized disclosure,
16 and so, I elected not to disclose the general or specific
17 subject matter, because I was not authorized to do so.

18 THE CHAIRMAN: Because, in effect, if you had, then you
19 would be at risk, potentially, your clearance, or your
20 livelihood, if someone wished to retaliate against you for
21 that decision?

22 MR. ATKINSON: That's correct.

23 THE CHAIRMAN: The net result of all this was a
24 whistleblower filed a complaint that that whistleblower
25 intended to come to Congress, right? The whistleblower did

1 want the complaint to come to Congress?

2 MR. ATKINSON: The complainant made it perfectly clear
3 that the complainant wanted that complaint to make it -- to
4 come to Congress and thought, in fact, because of the
5 specific circumstances here, that Congress was the only
6 effective place to investigate the alleged conduct.

7 THE CHAIRMAN: And that was, I think, in one of the
8 documents, because the whistleblower felt that since the
9 Attorney General, and, therefore, the Justice Department was
10 implicated by name in the complaint, and the President, that
11 Congress may be the only body independent enough to look into
12 the allegations?

13 MR. ATKINSON: That was my understanding of the
14 whistleblower's intent, yes.

15 THE CHAIRMAN: And, in fact, the Justice Department
16 prevented that complaint -- effectively prevented it from
17 coming to Congress?

18 MR. ATKINSON: I'm sorry. Could say that again?

19 THE CHAIRMAN: And, in fact, the Justice Department,
20 through the Office of Legal Counsel, effectively prevented
21 the complaint from coming to Congress?

22 MR. ATKINSON: I think that it might be fairer to say
23 that they -- I don't know what their intent was, but they
24 certainly delayed it from coming to Congress.

25 THE CHAIRMAN: Well, they issued an opinion saying

1 you're out of your jurisdiction. The Director of National
2 Intelligence used that opinion, and I guess another opinion
3 from White House counsel, to say that you could not share,
4 you were not authorized to share either the complaint or even
5 the subject matter with our committee. Is that right?

6 MR. ATKINSON: Yes. I think that's fair.

7 THE CHAIRMAN: So the downstream consequence of what
8 Bill Barr's Justice Department and OLC did was precisely what
9 the whistleblower was concerned of, and that is, interfere
10 with the investigation of these allegations?

11 MR. ATKINSON: I understand your question. I think -- I
12 think that the consequences of the OLC's decision are known.

13 THE CHAIRMAN: The last question before I turn it to my
14 colleagues: You mentioned before that in reading the record
15 of the call, and with the information you got, that you were
16 concerned that the President's actions appeared corrupt; had
17 you had the call record, you would have felt an added sense
18 of urgency.

19 Did I also understand you to say earlier that part of
20 why you also felt a sense of urgency was when you read press
21 reports that Rudy Giuliani was still engaged in the conduct
22 that the complainant was complaining about, so that the
23 danger was ongoing?

24 MR. ATKINSON: Yes. My view that this was an urgent
25 matter was informed by the recency of the conduct, by who

1 allegedly engaged in the conduct, that is, the President of
2 the United States, the subject matter, which had to do with,
3 you know, allegedly attempting to get foreign interference in
4 a presidential election that was upcoming, and because there
5 appeared to be ongoing activities related to the alleged
6 conduct.

7 THE CHAIRMAN: Ms. Demings.

8 MS. DEMINGS: Mr. Chair, thank you.

9 Thank you so much, Mr. Atkinson, for your endurance.
10 It's been a long day.

11 You've already talked about your preliminary review that
12 was done, you had 14 days, but you certainly expected a more
13 thorough investigation to be done. But I also believe you
14 said in your opening statement that the investigation also --
15 or information that you received also included or covered
16 several months, it included several countries, and it also
17 potentially included other individuals who may have been
18 engaged in wrongdoing. Is that correct?

19 MR. ATKINSON: In terms of the complainant's
20 allegations, yes.

21 MS. DEMINGS: And did you pass that information on to
22 the FBI?

23 MR. ATKINSON: I -- the answer is -- the answer is I
24 provided the FBI the information that's in the complainant's
25 letter and in the -- what was then the classified appendix.

1 That was the extent of the information that I shared with the
2 FBI.

3 MS. DEMINGS: So then the FBI would have been aware that
4 even though your focus was pretty narrow on the 25th,
5 July 25th call, that there were still other allegations
6 outside of that that you did not have an opportunity to
7 investigate?

8 MR. ATKINSON: That's correct.

9 MS. DEMINGS: Did you pass that information on to the
10 Acting Director of Intelligence? Was he also aware?

11 MR. ATKINSON: Yes. On August 23rd, 2019, I shared with
12 the Acting Director of National Intelligence the
13 complainant's letter and what was then the classified
14 appendix.

15 MS. DEMINGS: So there not only was the allegation
16 investigated thoroughly involving the call on July 25th, but
17 none of the other information, to your knowledge, that
18 there's no other investigatory agency that is looking into
19 the other allegations made in the complaint? Is that your
20 understanding?

21 MR. ATKINSON: I'm going to say -- I'm going to say I
22 don't -- I don't know. I don't know -- I don't have
23 visibility into everyone's -- every other department or
24 agency's or law enforcement's investigative files, so I was
25 not aware of any other law enforcement agency investigating

1 this alleged conduct, I was not aware of any inspector
2 general's office investigating this alleged conduct.

3 What I did know was that the -- what I did learn after
4 August 26th, what I did learn on September 4th was that the
5 State Department OIG had shared some information related to
6 events in Ukraine with the Federal Bureau of Investigation.

7 MS. DEMINGS: Thank you. Thank you, Mr. Chair.

8 THE CHAIRMAN: Representative Speier.

9 MS. SPEIER: Thank you, Mr. Chairman.

10 Inspector General Atkinson, I think that I speak for
11 many on this committee when I say what a remarkable patriot
12 you are, and what an outstanding job you have done as
13 inspector general moving through a very thorny situation, and
14 I'm very grateful to you on behalf of the American people.

15 Let me start by asking you, if you had any conversations
16 with the whistleblower at recent intervals?

17 MR. ATKINSON: Well, first of all, thank you for your
18 kind words. And because I was distracted by them, would you
19 mind repeating your question?

20 MS. SPEIER: Have you had any conversations with the
21 whistleblower in recent intervals?

22 MR. ATKINSON: So I have not had any communications with
23 the whistleblower personally. The investigative team has had
24 regular contact and recent contact with the whistleblower.
25 In fact, I want -- and with the whistleblower's attorney.

[REDACTED]

1 In fact, I wanted to make sure that the whistleblower's
2 attorney knew that we were transmitting this information to
3 the Intelligence Committee last night. We did not give them
4 a chance to review it, we didn't give them a chance to
5 comment on it, but I just wanted the whistleblower's attorney
6 to know so that he could inform the whistleblower that we
7 were going to be transmitting this information to the
8 committees, but it would be in redacted form.

9 MS. SPEIER: Can you give us any kind of an
10 understanding of the mental status of the whistleblower or
11 concerns that the whistleblower has for his or her safety?

12 MR. ATKINSON: Yes. I can tell you that the
13 whistleblower is taking appropriate steps to protect him or
14 herself, that we are -- my office is [REDACTED]

15 [REDACTED]
16 [REDACTED]
17 [REDACTED].
18 It's an incredibly serious matter, given the comments
19 that have been in the press, and I cannot state strongly
20 enough how worried I am, and my office is, about the
21 whistleblower's safety and the safety of other witnesses who
22 participated in our investigation. It is a -- I'm not going
23 to understate this. It is a deadly serious issue.

24 MS. SPEIER: Is there anything that you think this
25 committee should do in an effort to try and protect this

[REDACTED]

1 whistleblower?

2 MR. ATKINSON: I think that the -- I think that the
3 committee -- well, I'll leave it to the committee what, you
4 know, the committee should take.

5 I found Chairman Grassley's statement, public statement
6 about the need to hear and protect the whistleblower to be
7 very helpful and encouraging, and I think that those types of
8 responsible public statements others should follow.

9 THE CHAIRMAN: I have got something, if I could.

10 MS. SPEIER: Sure.

11 MR. ATKINSON: If I could -- I'm sorry. Just one --

12 THE CHAIRMAN: Yeah.

13 MR. ATKINSON: What I just said about the protection and
14 the -- we probably should -- we might want to classify that
15 information because of the -- in terms of what we are doing,
16 what steps we are taking. I think we might want to classify
17 that portion of the transcript.

18 THE CHAIRMAN: Okay. Thank you for clarifying that, and
19 we will work to make sure that information is secured.

20 I just want to, in response to your comments, make the
21 request through my colleague in the minority, as the IG has
22 said, it was very helpful to have Senator Grassley affirm the
23 importance of the whistleblower process. Likewise, Senator
24 Burr, insist he, through a spokesman, issued a statement it's
25 perfectly appropriate for whistleblowers to come to the

1 intelligence committees.

2 I would urge the minority to do the same. The fact that
3 that's bipartisan in the Senate I think is very helpful, and
4 it would be helpful if that's bipartisan in the House as
5 well. I yield back.

6 MS. SPEIER: Thank you, Mr. Chair,

7 In response to a comment made by my good friend,
8 Mr. Conaway, I read the supervisors' interviews slightly
9 differently. For the record, I just would like to point out
10 that one of them referred to the complainant as a star
11 performer with good and deep knowledge, a sophisticated
12 thinker and trustworthy. The other supervisor referred to
13 the complainant as an excellent employee and a deep expert,
14 with credibility, and an analytical -- an analytic thought
15 leader. And I think in both those circumstances, they
16 reflect an individual who is highly regarded by both
17 supervisors.

18 The Office of Legal Counsel had opined to the Director
19 of National Intelligence that he was not required to provide
20 the complaint to the committee. He did not -- the Office did
21 not say you cannot. And so, it was the DNI that chose, at
22 his discretion, not to allow you to turn it over.

23 Now that it's been made public, now that we know that
24 the OLC made it discretionary with the DNI, has the DNI
25 indicated to you a willingness now to allow you to continue

1 to do an investigation, since all of this information has
2 been made available to us?

3 MR. ATKINSON: The Acting DNI has not indicated that
4 willingness, but in fairness to him, I have not gone back to
5 the Acting DNI to request or to hear his view on that, you
6 know, my office continue with the investigation.

7 I have sought -- I have asked OLC to reconsider its
8 decision finding that my office lacks jurisdiction. My view
9 is that until the Office of Legal Counsel changes that
10 opinion, my office does not have authority to investigate the
11 matter.

12 MS. SPEIER: Okay. Could you -- and you don't need to
13 provide it to us today, but based on what we've experienced
14 here, it would seem to me that we need to make a number of
15 changes to the IC whistleblower statute, not only just
16 extending the length of time for you to investigate, but also
17 to make it clearer to whom a whistleblower can actually file
18 a complaint, and there may be other issues as well.

19 So at a future point in time, could you prepare for us,
20 at least your recommendations on how to strengthen the
21 whistleblower statute?

22 MR. ATKINSON: I will. I think the committee should
23 also consider what OLC's opinion means in terms of election
24 security in this country. The finding that foreign election
25 interference is somehow beyond the jurisdiction of the DNI, I

1 still do not understand how that decision was reached.

2 I do not understand how the Director of National
3 Intelligence is not collecting, analyzing, and disseminating
4 information about what the Ukrainians actually understood
5 from that telephone call. I don't understand, you know, why
6 action isn't being taken to figure out what actions, if any,
7 the Ukrainians are taking to interfere with our 2020
8 elections. I think it's one -- I think open source
9 information is very helpful. So, for example, what the
10 Ukrainian prime minister says -- Ukrainian president says in
11 front of a bunch of cameras, you know, that can be
12 informative to some extent, but what's often more informative
13 in the Intelligence Community are the communications behind
14 doors and outside of television cameras.

15 And so, I would think that what we ought to make clear,
16 perfectly clear is the Director of National Intelligence has
17 the authority and the responsibility to lead the Intelligence
18 Community's efforts to collect, analyze, disseminate
19 information about and conduct activities to protect against
20 that type of election interference.

21 MS. SPEIER: Thank you. When you testified earlier a
22 couple of weeks ago, you indicated to us that while the AG
23 came to a different conclusion than you did about the
24 credibility and urgency of the complaint, you were privy to
25 classified information that the AG was not.

1 Are you in a position today that you can share that
2 information with us?

3 MR. ATKINSON: I'm going to answer the question, but I
4 want to be clear. It was not the Attorney General, to my
5 knowledge. It was Office of Legal Counsel that made the
6 decision.

7 The Office of Legal Counsel did not, did not contradict
8 my determination that this was a credible and urgent concern.
9 What the Office of Legal Counsel found was that my office did
10 not have jurisdiction over the matter. And so, therefore, it
11 didn't matter what my determination was, because the Acting
12 Director was not required to transmit the information.

13 In terms of sharing other information, I think that you
14 now have most of the information that we had obtained during
15 our preliminary review through the materials that we produced
16 last night.

17 MS. SPEIER: Okay. And, finally, based on the OLC
18 guidance regarding not being able to indict a sitting
19 president, even if the AG thought that the President had
20 engaged in a criminal conspiracy, the AG would not have been
21 able to have brought action. Isn't that the case?

22 MR. ATKINSON: I'm sure I could offer an opinion on
23 that, but I am not the right person to answer that question
24 today.

25 MS. SPEIER: Okay. Thank you again.

1 MR. ATKINSON: Thank you.

2 THE CHAIRMAN: Mr. Welch.

3 MR. WELCH: I'll be fairly brief, but this has been very
4 informative.

5 When you made your determination about the urgency of
6 this matter, you didn't have the actual readout of the call,
7 correct?

8 MR. ATKINSON: I did not have the actual transcript,
9 that's correct.

10 MR. WELCH: Right. So you had information that was
11 disclosed to you from the whistleblower about what witness 1
12 and witness 2 had told him, correct?

13 MR. ATKINSON: That's correct. And we also had what
14 witness 2 told us about witness 2's recollection of having
15 read the call records.

16 MR. WELCH: And you also were aware of the so-called
17 potential bias of the whistleblower, correct?

18 MR. ATKINSON: Yes.

19 MR. WELCH: Now that the actual readout of the President
20 of the United States' call with the President of Ukraine,
21 having seen that, would that now, in any way, adjust your
22 determination made on the limited information you had that,
23 in fact, it was a matter of urgent concern?

24 MR. ATKINSON: It would certainly not change my
25 determination that it was both urgent and appeared credible,

1 no.

2 MR. WELCH: Right. And actually enhances the
3 credibility of what information you had received and the
4 wisdom of your initial decision?

5 MR. ATKINSON: I agree with that. I also want to make
6 it clear that I never considered the whistleblower to be
7 politically biased.

8 What I wanted to do was alert the Acting DNI to evidence
9 of an arguable political bias, but I also -- I am more
10 convinced now than before, though, based on the transcript,
11 that the complainant was not politically biased in any way
12 that, as far as I can tell, influenced the substance of his
13 or her disclosures.

14 MR. WELCH: Okay. I've listened to a number of
15 questions from my colleagues, and very few of them, I
16 thought, went to the heart of what was in that readout of the
17 report of the President, his discussion with the President of
18 Ukraine. They tended, as I heard them, to go primarily to
19 questions of what's the intent? Do you know what were the
20 biases? How much did you investigate that? Some questions
21 about whether people on this committee could be fact
22 witnesses.

23 Do any of those questions -- first of all, you're not in
24 a position to answer many of those questions, correct?

25 MR. ATKINSON: That's correct.

1 MR. WELCH: And, in fact, one of the reasons -- if you
2 were even going to try to answer some of these questions, you
3 would have been -- you would have needed to be authorized to
4 do -- or continue your investigation, correct?

5 MR. ATKINSON: That's correct. My intent was to
6 continue the investigation to answer those types of
7 questions, yes.

8 MR. WELCH: All right. You've been denied that. Now
9 it's up to probably this committee and others to follow
10 through on that.

11 Now, I thought the chairman sort of summed it up, I
12 thought, pretty well. Your obligation under this, or your
13 job under this is somewhat limited when the 14-day period
14 gets triggered, correct?

15 MR. ATKINSON: My responsibility is limited. I have all
16 of the tools available to me that I have as part of my
17 statutory authority. It's just the time limit is compressed.

18 MR. WELCH: Right. And that's why you're limited to
19 having that 14 days within which you do your determination
20 about the urgency of the matter, and whether it has to be
21 referred to the Acting DNI, correct?

22 MR. ATKINSON: My understanding was that whether I
23 determined the matter to be urgent or not, it would be
24 transmitted to the DNI, and forwarded to the intelligence
25 committees in the same time period, it just wouldn't have my

1 imprimatur of having been deemed credible.

2 MR. WELCH: All right. The way it worked out, your
3 finding of urgency has been confirmed essentially by the
4 readout of the call, that it was recent, that there was
5 Presidential involvement, the nature of the conduct, and the
6 ongoing effort through Mr. Giuliani to affect the result
7 sought, correct?

8 MR. ATKINSON: That sounds very similar to the answer I
9 gave earlier today, yes.

10 MR. WELCH: All right. And the other matter that I just
11 want to emphasize, because I think it's of concern to all of
12 us, is that under the OLC opinion, it's your view that the
13 whistleblower does not have the statutory protection that was
14 intended by Congress?

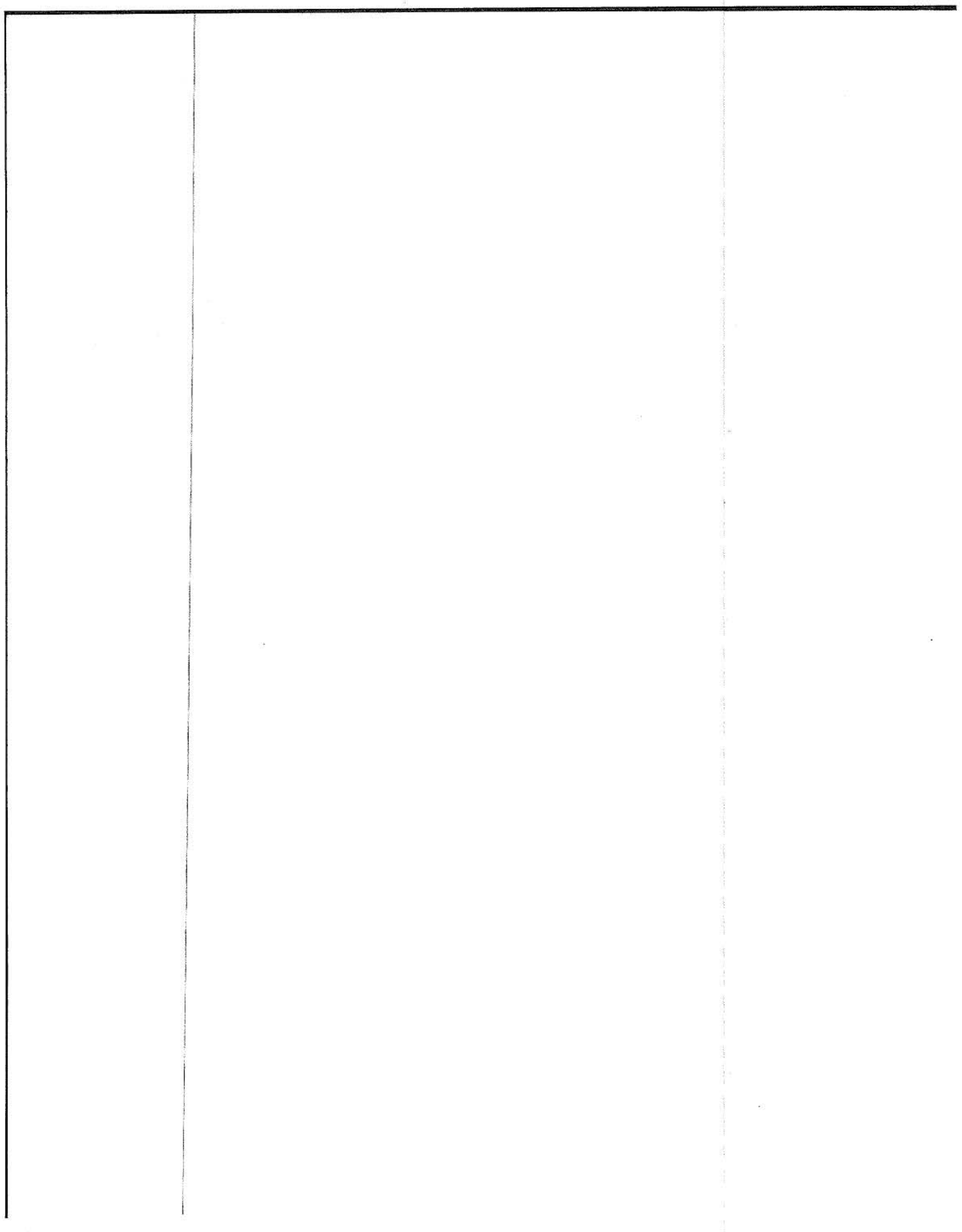
15 MR. ATKINSON: My view is that the whistleblower may not
16 have those statutory protections. I've asked OLC to clarify
17 that.

18 MR. WELCH: And, in fact, you as the Inspector General
19 would not have the authorization that you need and you take
20 as a prohibition if you act without authorization to have
21 informed this committee, correct?

22 MR. ATKINSON: To inform the committee of the
23 disclosure?

24 MR. WELCH: Right.

25 MR. ATKINSON: Again, I never -- nobody prohibited me



[REDACTED]

1 from informing the committee of the disclosure, which is why
2 I notified the committee on September 9th of the disclosure.

3 What I was not authorized to do was to disclose the
4 subject matter or the specific subject matter. And, again,
5 when you're not authorized to do something in the
6 Intelligence Community, you're effectively prohibited.

7 MR. WELCH: Right. Thank you very much, Mr. Atkinson.

8 MR. ATKINSON: Thank you.

9 [REDACTED] I just have a -- I'll try to quickly go
10 through a couple more questions.

11 You said that Admiral Maguire, the Acting DNI, did not
12 exercise his discretion to allow you to transmit the
13 complaint. Do you know why? Did you ever get an explanation
14 for why the Acting Director did not use that discretion to do
15 so?

16 MR. ATKINSON: Not that I recall.

17 [REDACTED] Did you have an understanding as to
18 whether any assertion, or potential assertion, of executive
19 privilege played a role in Admiral Maguire's decision?

20 MR. ATKINSON: I understood that the materials would
21 have to go through an executive privilege review. My sense,
22 though, was that -- my sense was that after OLC rendered its
23 opinion, it wasn't clear to me that those efforts to put the
24 materials through a privileged review were ongoing.

25 My impression was that -- and I could be wrong. The

[REDACTED]

[REDACTED]

1 best source of this information is ODNI, but my impression
2 was that those efforts had stopped. Again, I could be wrong,
3 I don't have firsthand information, but that is what led me
4 to notify the committee.

5 My sense was that -- well, my sense was that -- I would
6 need to go back to my notes. My sense was that Mr. Klitenic
7 was still trying to -- was still in discussions with the
8 White House counsel or with OLC to see whether they would
9 allow me to disclose that there had been an OLC opinion,
10 because I wanted the committees to know that there had been a
11 filing of urgent concern and I wanted to just let the
12 committees know of the fact of the opinion to explain why it
13 had not been transmitted. And I believe that Mr. Klitenic
14 was in communication with the White House counsel about
15 whether I would be authorized to explain why the disclosure
16 had not been transmitted, but I never got that authorization.

17 [REDACTED] On September 19th, when you appeared here,
18 you would not answer any questions related to the White House
19 because of your concern that it may be privileged
20 information.

21 Would that same concern apply to the ODNI in regard to
22 this complaint as of that date, September 19th?

23 MR. ATKINSON: Potentially.

24 [REDACTED] Right. So was it your understanding that
25 the White House authorized the release of the complaint last

[REDACTED]

1 week?

2 MR. ATKINSON: I don't -- was it my understanding? I
3 don't know who authorized the release of the complaint.

4 [REDACTED] Let's focus for a second. We don't have
5 much time, and I don't want to keep you much longer since
6 you've gone straight through lunch. And we appreciate that
7 very much. But I want to understand, the White House's
8 involvement, as far as you know -- so if we go back to that
9 August 14th -- and I may summarize things just to try to move
10 it a little bit more quickly.

11 Jason Klitenic, the ODNI GC, had learned through other
12 sources within the Intelligence Community that there may be a
13 whistleblower complaint coming your way. Is that accurate?

14 MR. ATKINSON: It either had been filed with my office
15 or would be filed with my office shortly.

16 [REDACTED] And at that point, did he inform you, or
17 did you learn that the White House was also aware of this
18 whistleblower complaint?

19 MR. ATKINSON: I knew -- I don't know the exact date,
20 but I knew sometime between August 14th and August 22nd that
21 the White House was aware that a disclosure either was made
22 with my office or was going to be made with my office.

23 [REDACTED]: Did the complainant tell you that he or
24 she had run this up his or her own agency chain?

25 MR. ATKINSON: The answer is, the complainant explained

[REDACTED]

1 to us how the complainant related his or her concerns to
2 supervisors and lawyers in a way that's consistent with the
3 law.

4 [REDACTED] Right. I guess there's -- on page 25 of
5 your -- which is your interview of the complainant, there's a
6 lot that's redacted and it's hard to decipher, and we
7 understand the reactions are designed to protect the identity
8 of the complainant, so I'm reluctant to delve into it. But
9 in connection with what is described on the bottom of the
10 complainant relaying information to someone on July 26th, and
11 meeting again on July 29th, did you come to understand that
12 that information that was relayed to those individuals was
13 subsequently relayed to the White House, and that that may
14 have been cause for the complainant's concerns on August 26th
15 about allowing the information to go to the White House?

16 Perhaps just ignore the second question. We can get to
17 that later, but --

18 MR. ATKINSON: Give me one second here.

19 [REDACTED]: Yeah.

20 MR. ATKINSON: Would you mind asking me the question
21 again?

22 [REDACTED] I pointed you to part of your Memorandum
23 of Investigative Activity related to an interview of the
24 complainant, and in the section entitled "Others Aware of
25 Complainant's Concern," there's a lot that's redacted, but it

[REDACTED]

[REDACTED]

1 does indicate that on July 26th, which would have been the
2 day after the Presidential phone call, and the day that the
3 complainant received the information from witness 1, the
4 complainant told somebody. And it's hard to decipher what
5 happened.

6 The complainant then -- Monday, had a conversation --
7 well, met again, met with this person, presumably the same
8 person, but we don't know.

9 The question is, do you know, and you said they met
10 with -- that he or she met with lawyers. Do you know if the
11 lawyers for whatever agency informed the White House about
12 the subject of this complaint?

13 MR. ATKINSON: Yes. My understanding is that the
14 lawyers for the particular Intelligence Community element
15 informed lawyers at the National Security Council about
16 the -- I don't know what the right word is -- gist or
17 substance of the complainant's complaint, but what I don't
18 know is whether the general counsel disclosed the identity of
19 the complainant.

20 [REDACTED] Okay. Do you know when that subject
21 matter of the complaint was relayed to the National Security
22 Council legal advisor?

23 MR. ATKINSON: I do know the answer to that. I do know
24 the answer to that. I don't have that information in front
25 of me, but it would have been -- it would have been shortly

[REDACTED]

1 after -- at least within a week of the July 26th initial
2 disclosure.

3 [REDACTED]: I'm sorry. Okay. Would you be able to --
4 if you don't have that specific date but you can obtain it,
5 would you be able to get back to us with that date?

6 MR. ATKINSON: Yes. That date is knowable.

7 [REDACTED] Okay. Thank you. I will yield to the
8 minority.

9 [Recess.]

10 [REDACTED] Back on the record, and the minority's
11 round.

12 [REDACTED] Good afternoon. We'll try to make this --
13 you know, famous last words of a lawyer, we'll try to make
14 this quick.

15 MR. ATKINSON: Good afternoon.

16 [REDACTED] All right. I just want to clarify
17 something that I didn't quite understand. [REDACTED] had
18 asked you if -- the question had to do with the DNI GC,
19 Mr. Klitenic, learning from within the IC about the
20 whistleblower complaint, possible whistleblower complaint
21 prior to it coming to your office, and then you went on to
22 answer the question.

23 I just wanted to -- were you affirming that it did come
24 from within the IC, or did you just not catch that part? The
25 question had built in, like, that he got it from within the

1 IC.

2 MR. ATKINSON: Mr. Klitenic?

3 [REDACTED] Yes.

4 MR. ATKINSON: Yes. My understanding was that it did
5 come from the general counsel from an Intelligence Community
6 element.

7 [REDACTED]: All right. Thank you. I just wanted to
8 clarify that.

9 All right. So prior to your job as the IC IG, you were
10 a senior official at DOJ, right?

11 MR. ATKINSON: I was the Acting Deputy Assistant
12 Attorney General for national asset protection for a couple
13 months, and then I was a senior counsel to the assistant
14 attorney general for the National Security Division.

15 [REDACTED] Thank you. And that -- that was John
16 Carlin at the NSD?

17 MR. ATKINSON: Mr. Carlin was the acting assistant -- he
18 was the -- excuse me. He was the assistant attorney general
19 for the National Security Division when I arrived. And then
20 when I left, it was the -- John DeMurrs (ph) was the
21 assistant attorney general.

22 [REDACTED]: And so you were -- okay. So you were
23 under both of them?

24 MR. ATKINSON: Correct.

25 [REDACTED]: Thank you. And after -- and Mary McChord

[REDACTED]

1 (ph), did she ever replace anybody there?

2 MR. ATKINSON: She replaced Mr. -- what I'm struggling
3 with is there was a period of time when Mr. Carlin left. And
4 then what I can't remember -- I believe that Mary McChord
5 became the acting assistant attorney general for the National
6 Security Division. And then -- but then I clearly remember
7 that after that, Dana Bentay (ph) became the acting assistant
8 attorney general for the National Security Division before
9 Mr. DeMurrs was confirmed by the Senate.

10 [REDACTED] And so did you work under Mary McChord and
11 John Carlin at some point, each in --

12 MR. ATKINSON: At the National Security Division? Yes,
13 I did.

14 [REDACTED] Okay. Thanks.

15 The FBI's investigation into the Trump campaign also
16 began in July 2016 and John Carlin received regular status
17 briefs on the case. When you were at NSD working under John
18 Carlin, were you aware of the FBI's investigation into Trump
19 campaign associates?

20 MR. ATKINSON: What I remember is that we would have
21 staff meetings that I would participate in, and then the
22 staff would -- the words that they would -- the word that
23 they would use is it would skinny down to the people who
24 actually were involved in those sensitive matters. I was not
25 included in that smaller group.

[REDACTED]

[REDACTED]

1 At some point in time, and I can't remember when, and I
2 can't remember whether it came through the course of my work
3 in the National Security Division or from, you know, reading
4 events that were happening in the press, I did come to
5 understand that the National Security Division was
6 participating in some review related to the -- to that
7 campaign, but I never -- to my knowledge, I did not
8 participate in substantive discussions related to that
9 investigation.

10 [REDACTED] All right. And Ms. McChord was also
11 documented in aspects of the FBI's investigation once she
12 took over leading NSD. Apparently accompanied by Sally
13 Yates, Ms. McChord met with the then-White House counsel, Don
14 McGahn, to discuss Michael Flynn.

15 Were you aware of an investigation into Michael Flynn?

16 [REDACTED]: I'm sorry. One point of order here just to
17 be absolutely clear.

18 [REDACTED] Yes.

19 [REDACTED] Are these questions that relate to the
20 complaint at hand or are they intended to --

21 [REDACTED] They do.

22 [REDACTED] It does.

23 [REDACTED] Sorry. One second.

24 [REDACTED] One at a time.

25 [REDACTED] I'm sorry. I'm sorry. I understand a

[REDACTED]

1 member on your team has a personal relationship with the
2 subject of that investigation, so we'll set that aside for
3 now.

4 The question, however, is whether or not the questions
5 at hand today relate to the handling and the substance of the
6 complaint itself or is it intended to --

7 [REDACTED] No.

8 [REDACTED] -- inquire into the professional history of
9 Mr. --

10 [REDACTED] No, no. It's not --

11 [REDACTED] -- Atkinson?

12 MR. CASTRO: It's -- they do. These questions came not
13 from staff, but from the ranking member and Members. That's
14 the genesis. It's not from staff.

15 [REDACTED]: Okay. But and the relevance of --

16 [REDACTED]: And it does -- they believe it does relate
17 as far as bias and credibility, or potential bias and
18 credibility, and they want to clear it up.

19 [REDACTED] Of Mr. Atkinson himself?

20 [REDACTED]: Yes. And they want to clear that up on
21 the record.

22 [REDACTED] And bias would be because he may have
23 knowledge about other cases through his official duties in
24 the past?

25 [REDACTED]: It's just -- I'm almost done.

1 [REDACTED] Okay.

2 [REDACTED] It won't be a long time.

3 [REDACTED] Okay. We will be listening closely.

4 [REDACTED]: I'll repeat the question, sir.

5 Ms. McChord apparently accompanied Sally Yates to meet
6 with the White House counsel, Don McGahn, to discuss Michael
7 Flynn. The question is, were you aware of an investigation
8 into Michael Flynn when you were working at NSD under
9 Ms. McChord or anybody else over there?

10 MR. ATKINSON: To the best of my recollection, I learned
11 about that investigation through reports in the press. I do
12 not remember being involved in substantive discussions about
13 those investigations, and I don't remember being included in
14 individuals in the office who were knowledgeable of those
15 investigations.

16 At the time -- in the time frame you're talking about, I
17 was the senior counsel to the assistant attorney general and
18 I was focused primarily on cybersecurity, export control, and
19 sanctions, and foreign direct investment. I was not involved
20 into the activities surrounding the 2016 campaign.

21 [REDACTED] And were you informed about the meeting
22 with McGahn either prior to or after the meeting?

23 MR. ATKINSON: I certainly was not informed about the
24 meeting before. And, again, my best recollection is to the
25 extent I learned about the meeting, it was from press

1 reports.

2 [REDACTED] Thank you. And one final question on this
3 topic.

4 In this position, were you in any way involved in the
5 FISA process? Or two more questions, but that's one.

6 MR. ATKINSON: I was not involved in the process in
7 which FISAs were reviewed or approved or processed. I may
8 have had access to information obtained through a FISA as
9 part of my responsibilities, but I do not have a clear
10 recollection of -- I do not have a clear recollection,
11 sitting here today, of having reviewed a specific FISA
12 product.

13 [REDACTED] Okay. Were you specifically involved in,
14 or indirectly made aware of the Carter Page FISA application
15 or subsequent renewals?

16 VOICE: This is absurd.

17 [REDACTED] That's the last question on this line of
18 questions.

19 MR. ATKINSON: Again, I was not involved in that
20 investigation and I do not recall being made aware of that
21 matter until I would have read about it in the press.

22 [REDACTED] Thank you.

23 MR. ATKINSON: I do want to make it clear that that
24 matter, within the National Security Division, was a very
25 close-hold matter. And I have specific recollections of when

1 those sensitive matters were discussed, that the group would
2 skinny down, and I would leave the room and those matters
3 would be discussed.

4 [REDACTED] Thank you.

5 [REDACTED] Sorry. Just on that point, can I make one
6 administrative note? I just want to re-emphasize that this
7 discussion, this transcript, is executive session. None of
8 this information, including the answers, should be provided
9 to anybody outside of the committee, including potentially to
10 the counsel of Mr. Flynn.

11 Thank you. Go ahead.

12 [REDACTED] Understood. Thank you.

13 All right. Let's move back to the whistleblower
14 complaint.

15 THE CHAIRMAN: And just for the record, because I know
16 we've had Members come and go, can you state the names of
17 Republican counsel who are present?

18 [REDACTED] I'm sorry. [REDACTED]

19 [REDACTED]

20 THE CHAIRMAN: Republican staff who are present right
21 now.

22 [REDACTED] Which Republican staff -- we'll do the same.
23 Please.

24 [REDACTED] All right. [REDACTED]

25 [REDACTED] Go ahead.

[REDACTED]

[REDACTED]

1 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
2 [REDACTED] [REDACTED]
3 [REDACTED] [REDACTED] [REDACTED]
4 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
5 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
6 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
7 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
8 [REDACTED]
9 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
10 [REDACTED]

11 And in the corner is the [REDACTED], [REDACTED] and an
12 [REDACTED]. [REDACTED].

13 [REDACTED] Okay. Let's get back to the subject
14 matter of the complaint, the whistleblower complaint, and how
15 it relates to the funding, administration, or operation of an
16 intelligence activity within the responsibility and authority
17 of the DNI that involves classified information.

18 We talked -- there was some discussion in the last few
19 hours along the way about differences of opinion and
20 interpretation of statutes. I think the DNI may have said it
21 best when he was testifying in open session that we have a
22 supreme court, and there are often five-to-four opinions
23 amongst the Justices, and it doesn't mean that they are
24 incompetent or there's any funny business going on, it's they
25 are all very competent attorneys and judges, and that's just

[REDACTED]

1 the way it happens in the law.

2 So we would like to explore a little bit more about your
3 reasoning, and your thinking process about classifying this,
4 what you learned as falling within the jurisdiction of the
5 DNI and, therefore, giving your office jurisdiction over it
6 and forwarding it to the DNI counsel.

7 One interpretation of this is that these are the
8 President's telephone calls with foreign leaders. So the
9 question is, would that fall in, that alone, President's
10 telephone calls with foreign leaders, fall within the
11 jurisdiction and authority and responsibility of the DNI?

12 MR. ATKINSON: Yes, because that's what happened here.

13 [REDACTED] Well, let's back up from the facts here.
14 But just generally, telephone calls that the President makes.

15 MR. ATKINSON: It depends on what is discussed on the
16 call and whether what is discussed on the call becomes
17 related to an intelligence activity.

18 [REDACTED] So what in that phone call was -- did you
19 believe was related to intelligence activity, the specific
20 whistleblower complaint telephone called that's at issue?

21 MR. ATKINSON: Efforts to solicit foreign assistance in
22 a U.S. election.

23 [REDACTED] And what is DNI's role with respect to
24 preventing foreign interference in U.S. elections?

25 MR. ATKINSON: The DNI has a very significant and

1 important role in detecting and deterring foreign election
2 interference in U.S. elections.

3 "The Director of National Intelligence has
4 responsibility and authority pursuant to Federal law and
5 Executive Orders to administer and operate programs and
6 activities related to potential foreign interference in a
7 United States election."

8 That's the National Security Act of 1947. That's in
9 Executive Order No. 12333, and That's in Executive Order No.
10 13848.

11 "Among other responsibilities and authorities, subject
12 to the authority, direction, and control of the President,
13 the Director of National Intelligence 'shall serve as the
14 head of the Intelligence Community, act as the principal
15 advisor to the President, to the National Security Council,
16 and to the Homeland Security council for intelligence matters
17 related to national security, and shall oversee and direct
18 implementation of the National Intelligence Program and
19 execution of the National Intelligence Program budget.'"

20 "Executive Order No. 12333 states the following
21 regarding the DNI's leadership of the Intelligence Community:

22 Consisting with applicable Federal law and with the
23 other provisions of this order, and under the leadership of
24 the Director of National Intelligence, as specified in such
25 law in this order, the Intelligence Community shall collect

information concerning, and conduct activities to protect against intelligence activities directed against the United States, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents.

"Recently, in issuing Executive Order No. 13848," which is called "Imposing Certain Sanctions in the Event of Foreign Influence in a United States Election, President Trump acknowledged the following regarding foreign influence in United States elections: I, Donald J. Trump, President of the United States, find that the ability of persons located, in whole or in part, outside the United States to interfere in or undermine public confidence in United States elections, including through the unauthorized accessing of the election and campaign infrastructure or the covert distribution of propaganda and disinformation, constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States.

"Among other directives, the Executive Order requires the Director of National Intelligence, in consultation with the heads of any other appropriate executive departments and agencies, not later than 45 days after the conclusion of a United States election, to 'conduct an assessment of any information indicating that a foreign government, or any person acting as an agent of or on behalf of a foreign

government, has acted with the intent or purpose of interfering in that election,' and the 'assessment shall identify, to the maximum extent ascertainable, the nature of any foreign interference and any methods employed to execute it, the persons involved, and the foreign government or governments that authorized, directed, sponsored, or supported it.'"

In terms of the DNI's own view of its responsibility over foreign election interference, "on July 19, 2019, less than one week before the President's call on July 25, 2019, as part of the Director of National Intelligence's responsibility and authority to administer and operate programs and activities related to potential foreign interference in a United States election, the Director of National Intelligence announced the establishment of the Intelligence Community Election Threats Executive."

In the words of then Direct of National Intelligence Dan Coats, "Election security is an enduring challenge and a top priority for the Intelligence Community."

He went on, "In order to build on our successful approach to the 2018 elections, the Intelligence Community must properly align its resources to bring the strongest level of support to this critical issue."

"On its public website, the Office of the Director of National Intelligence touts the Intelligence Community's

[REDACTED]

1 critical role in protecting our democratic processes and
2 institutions from foreign influence and interference."

3 This is from the DNI's website: "Foreign influence and
4 interference in U.S. elections pose significant threats to
5 our democracy. The Intelligence Community is committed to
6 protecting our democratic processes and institutions from
7 foreign influence and interference. Election security is an
8 enduring challenge and a top priority for the Intelligence
9 Community."

10 He went on, quote, "The Office of the Director of
11 National Intelligence serves as the coordinating authority
12 for the Intelligence Community on election security and is
13 the bridge between foreign collection activities and domestic
14 actions. The ODNI works across the Intelligence Community to
15 ensure that our threat information is consistent and clearly
16 communicated to a broad base of customers. The IC
17 continues to warn on our adversaries' intent..." --

18 [REDACTED] Sir.

19 MR. ATKINSON: I'm just about done.

20 [REDACTED] Okay.

21 MR. ATKINSON: "...capabilities, and operations that may
22 affect our ability to defend against interference."

23 [REDACTED] Thank you.

24 MR. ATKINSON: I could go on if you want to hear --

25 [REDACTED] No, no.

[REDACTED]

1 MR. ATKINSON: -- more about the DNI's responsibility
2 for election security.

3 [REDACTED] No, I'm going to walk back through some
4 of the points you made.

5 So he does -- he, in coordination with other agencies,
6 have to coordinate, do an assessment of -- you mentioned the
7 assessment.

8 Now, isn't it true that he sits on top of a lot of -- he
9 can coordinate with a lot of -- he doesn't have -- let me
10 rephrase that.

11 He doesn't have all the information that he needs and
12 all the authorities to get what he needs, but he, as somebody
13 who's high up, can coordinate among agencies to corral all
14 that information to provide an assessment to policymakers and
15 the President?

16 MR. ATKINSON: He does more than corral. He's supposed
17 to lead those efforts.

18 [REDACTED]: Now, it says at the end that he
19 coordinates authority for the IC.

20 Now, the IC, their main mission, is to collect foreign
21 intelligence, correct, process it and disseminate it, analyze
22 it and disseminate it, make it available to the President,
23 policymakers, and people who need it, right?

24 MR. ATKINSON: I think that's fair.

25 [REDACTED] And what I'm getting at is you did read

1 the website, and I looked through several websites of several
2 different agencies, and a lot of them tout that they are in
3 charge of election security.

4 For instance, DHS's Cybersecurity and Infrastructure
5 Security Agency, called CISA, lists election security as one
6 of its highest priorities. It says they work the front lines
7 of elections, State and local governments and election
8 officials, Federal partners, and vendors to manage risks to
9 the Nation's election infrastructure: "CISA works to insure
10 the physical security and cybersecurity of the systems and
11 assets that support the Nation."

12 Then you also have the FBI that is the lead agency
13 responsible for investigating foreign influence operations in
14 the United States. And Director Wray of the FBI established
15 the Foreign Influence Task Force in the fall of 2019 to focus
16 on countering foreign influence in U.S. elections.

17 So wouldn't you agree that there are various agencies in
18 the executive branch that have -- some of their prime
19 purposes are to thwart foreign interference in election
20 security?

21 MR. ATKINSON: I would agree with that, which is why,
22 given that important responsibility, and the vast number of
23 agencies who have some responsibility for that, that you want
24 a leader for those efforts, and the Director of National
25 Intelligence is supposed to be that leader.

[REDACTED]

1 What we learned after 9/11 is when you compartment that
2 information within single departments or agencies, bad things
3 can happen, which is why the Director of National
4 Intelligence is supposed to lead and coordinate all of those
5 efforts.

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[REDACTED]

[4:13 p.m.]

[REDACTED]: Okay. We can agree to disagree on interpretation. I mean, because if we went to DHS or FBI and said, hey, DNI has got the lead on making sure this stuff is safe, I think we'd get pushback from them as well.

MR. ATKINSON: Well, in fairness to me, I did refer the matter to the FBI as well for them to take action, and we all -- we can -- it's a matter of public record what was done with that information.

[REDACTED] Absolutely. Thank you for your answers. Just a moment.

All right. We're going to move on to other topics. I'm going to excuse myself for a moment because I have to go turn off my computer before they turn off the electricity.

[REDACTED]: Mr. Atkinson, would you agree that the Office of Legal Counsel has the authority to issue a legal opinion interpreting the authorities of executive branch agencies?

MR. ATKINSON: Yes, I agree with that.

[REDACTED] Your answer to an earlier question seemed to affirm that the OLC's issuance of a legal opinion interpreting the scope of the DNI's authority was an act of interference. Is that what you meant to convey?

MR. ATKINSON: The consequence of the -- one of the consequences of the OLC opinion was that it put an end to my

1 office's attempts to investigate, fully investigate or
2 participate in an investigation with a law enforcement entity
3 into the alleged conduct. That was a consequence of the OLC
4 opinion.

5 [REDACTED] And would you classify that consequence as
6 an affirmative act of interference?

7 MR. ATKINSON: I don't know what the motivations were
8 for the Department of Justice.

9 [REDACTED] Okay. One brief question about the revision
10 of the urgent disclosure form. You stated earlier that the
11 form was changed in response to press inquiries about the
12 firsthand information requirement contained in the prior
13 form.

14 The form, as it now states, is backdated to August 2019,
15 but supposedly these press inquiries would have come in
16 September, once the story broke. So why is the form
17 backdated?

18 MR. ATKINSON: I need to understand whether we're
19 talking about the same form.

20 [REDACTED] Counsel, do you have a copy for the
21 majority?

22 [REDACTED] I do.

23 MR. ATKINSON: What I don't know is whether it's --
24 first of all, I do not believe that the form was backdated.
25 I certainly did not direct anyone and, to my knowledge, no

[REDACTED]

1 one backdated the form. What is possible is that the
2 revision date was not updated. But I -- to my knowledge,
3 there was no effort to backdate any of these forms.

4 [REDACTED] And just for the record, what date was this
5 form officially posted on your website?

6 MR. ATKINSON: I don't know the answer to that, but it's
7 knowable. It's one of the questions that Ranking Member
8 Nunes asked me in his letter, and I'm happy to get that
9 information. I just don't have it available right now.

10 [REDACTED] Yes. I think we would appreciate responses
11 to the outstanding questions from that letter that were not
12 addressed in the September 30th press release.

13 MR. ATKINSON: Okay.

14 [REDACTED] All right. Just give me a minute.

15 I have a couple of questions. One of the Member
16 questions, I believe you said earlier that you called the
17 complainant's lawyer last night just to let him know that you
18 were transmitting documents to the committee. Did I get that
19 right?

20 MR. ATKINSON: I did not call.

21 [REDACTED] Somebody?

22 MR. ATKINSON: Someone from my office called the
23 whistleblower's lawyer, yes.

24 [REDACTED] And did you provide those documents to him
25 too, to the --

[REDACTED]

1 MR. ATKINSON: No.

2 [REDACTED] Okay. And did you or anyone from your
3 staff communicate with former ICIG Charles McCullough or any
4 former ICIG staff, related to this complaint?

5 MR. ATKINSON: Not to my knowledge, no.

6 [REDACTED] Okay. I think we're done. I'll just
7 reserve like if I think of something while you guys are doing
8 some questions, I might have one or two, but I think we're
9 done.

10 Thank you, sir.

11 MR. ATKINSON: Thank you.

12 THE CHAIRMAN: And we're getting close to the end.
13 Thank you for your patience.

14 MR. ATKINSON: Let me just -- [REDACTED] just to
15 clarify your last question regarding Mr. McCullough.
16 Mr. McCullough is one of the whistleblower's attorneys. I'm
17 told that he is on some of the correspondence my office has
18 had with the whistleblower's attorneys, but beyond that
19 correspondence, I'm not aware -- I don't have personal
20 knowledge of other -- of any oral communications with
21 Mr. McCullough.

22 [REDACTED] Thanks. And the conversations you had
23 with him are typical that you would have with any
24 whistleblower's attorneys?

25 MR. ATKINSON: Again, to be clear, I haven't talked to

[REDACTED]

1 any of the whistleblower's attorneys. But to the extent that
2 my office has had communications with the whistleblower's
3 attorney, yes, they are the -- they are --

4 [REDACTED] Routine?

5 MR. ATKINSON: There is nothing routine about this
6 matter. They are -- they are appropriate and --

7 [REDACTED] I guess my point is, it's the way you
8 would -- your office would either email or communicate with
9 any whistleblower attorney. There's nothing different about
10 the nature of the conversations you're having. It's all
11 about what's going on in this whistleblower complaint.

12 MR. ATKINSON: I know what you're asking.

13 [REDACTED] Let me ask, for advice, you didn't ask him
14 for advice about how to deal with this?

15 MR. ATKINSON: Ask the attorneys for advice?

16 [REDACTED] Yes, ask McCullough. Nobody from your
17 office asked McCullough about his input or his advice on how
18 your office should deal with this?

19 MR. ATKINSON: No, not to my knowledge. I hesitate
20 because -- in response to your original question, because the
21 attorneys have had their own security concerns, and so
22 it's -- it's just -- and it's not that we've had any
23 inappropriate communications. It's just that the subject
24 matter of the communications with the attorneys are
25 extraordinary, given the events, but it's not -- it's the

[REDACTED]

1 subject matter. It's the security concerns for the client
2 and for the attorneys themselves.

3 Not that -- there's nothing inappropriate about having
4 those conversations. It's just that the severity of the
5 risks that exist to the individuals involved in this
6 investigation, there's just nothing routine about that.
7 There's just nothing routine about that. There's nothing
8 inappropriate with our communications, but they're unlike --
9 the nature of the conversations, in terms of the security
10 issues, are unlike anything I've been involved with since
11 I've become the Inspector General.

12 [REDACTED]: Thank you. Thanks for the clarification.
13 [REDACTED] Mr. Atkinson, were you able to refresh
14 your recollection as to the date that the National Security
15 Council legal adviser learned about the subject of what
16 became this whistleblower complaint?

17 MR. ATKINSON: I was not, but that information is
18 knowable. I do believe it's shortly after that -- shortly
19 after July 26, when the whistleblower first learned about the
20 call from witness one.

21 [REDACTED] And during the course of your
22 investigation, including your interview with witness two,
23 were you able to determine when the transcript or the summary
24 moved to the code word highly classified server?

25 MR. ATKINSON: The best source of that information would

[REDACTED]

1 be the complainant statements, and I don't remember the
2 complainant mentioning -- well, the complainant may have
3 mentioned a timeframe of how quickly that was moved after the
4 call. I just don't recall.

5 [REDACTED] Okay. If you don't have an independent
6 recollection, we have the documents and we'll look through it
7 as well.

8 You've expressed some concern in providing the identity
9 of the Intelligence Community element to the committee and
10 others for fear that it will help to identify the
11 whistleblower. Is that right?

12 MR. ATKINSON: Correct.

13 [REDACTED] But the White House learned very shortly
14 after this call the identity of the element, because that
15 element's attorneys went to the White House. Is that right?

16 MR. ATKINSON: I don't know that you can -- I don't know
17 the answer to that.

18 [REDACTED] Do you have any reason to believe that if
19 the element, the IC element notified the White House that the
20 White House would not know which element that the
21 whistleblower was under? Assuming it wasn't you, with
22 oversight -- or the DNI, which has supervision over all of
23 them, it would be a specific one, right?

24 MR. ATKINSON: People in the Intelligence Community can
25 move around. They don't necessarily have to be with -- they

1 don't have to necessarily be working for the element that --
2 to which they are assigned.

3 [REDACTED] They can be detailed?

4 MR. ATKINSON: Correct.

5 [REDACTED] Okay. But their home agency would be
6 known?

7 MR. ATKINSON: It would be reasonable for the White
8 House counsel to assume that that individual had some
9 professional relationship to the element that the general
10 counsel belonged to.

11 [REDACTED] Okay. And that that could then
12 potentially jeopardize the confidentiality of the
13 whistleblower, based on your own rationale, correct?

14 MR. ATKINSON: It narrows -- it narrows the number of
15 individuals who could be the whistleblower, and then, yes,
16 could lead to the individual's identification.

17 [REDACTED] Okay. So we've established at least that
18 the White -- we can get the exact date, but that the White
19 House counsel -- and I'll use that broadly, understanding as
20 the NSC legal adviser's office. The White House Counsel's
21 Office learned of the subject, the broad subject of the
22 complaint shortly after July 26th, which was the day after
23 the call.

24 Are you aware of any other involvement of the White
25 House Counsel's Office from that point up until August 22nd,

[REDACTED]

[REDACTED]

1 I believe, when the ODNI informed you that the White House
2 Counsel's Office wanted to do a privilege review? I may have
3 those dates wrong, but --

4 MR. ATKINSON: I don't have a clear recollection of a --
5 my information would have come from either Mr. Klitenic or
6 [REDACTED]. I don't have a clear recollection of them
7 mentioning to me involvement by the White House between those
8 dates. I would have to go back and check my notes to see if
9 there was some reference to White House involvement before my
10 conversation with Mr. Klitenic and [REDACTED] on August
11 22nd.

12 [REDACTED] Witness two described how there was a lot
13 of bustling or hustling and closed door meetings shortly
14 after the call. Do you know whether those meetings were in
15 any way in connection to being notified about the potential
16 whistleblower?

17 MR. ATKINSON: I do not know. I do not know.

18 [REDACTED] You don't know, okay.

19 To your knowledge, how did the OLC get involved?

20 MR. ATKINSON: To my knowledge, OLC got involved -- and
21 this is all through my conversations with Mr. Klitenic and
22 [REDACTED] -- after the White House learned that the
23 complainant intended to file -- I shouldn't say after.
24 Either before or after the complainant filed the disclosure
25 with my office.

[REDACTED]

1 My sense was that when the complainant filed the
2 disclosure with my office, if OLC was not already involved
3 they became involved, because what I began to hear during
4 that period of between August 15th and August 22nd from
5 [REDACTED] and Mr. Klitenic was that OLC was of the opinion
6 that my office did not have jurisdiction.

7 And so what I don't remember is -- what I don't know is
8 who brought OLC into that conversation, but I was surprised
9 that OLC had become involved in that analysis so early. And
10 I was also surprised -- I was also surprised that OLC -- I
11 was surprised that OLC was of the opinion that my office did
12 not have jurisdiction because of -- because the subject
13 matter related to election interference.

14 And I could not understand how OLC was coming to that
15 view even before I had transmitted my determination to the
16 Acting DNI. That's my recollection, is that I was aware that
17 OLC was involved before I even made the transmittal to the
18 DNI.

19 And I just was really surprised that OLC had gotten --
20 my recollection is I was surprised that OLC had gotten
21 involved so early and was taking a position that we would
22 not -- we did not have jurisdiction to investigate the
23 matter.

24 And it sounded like OLC was taking the position that we
25 really didn't have jurisdiction to review the disclosure,

[REDACTED]

1 that the disclosure was outside of our jurisdiction, and so
2 my office, you know, didn't even have jurisdiction to process
3 the disclosure.

4 THE CHAIRMAN: I want to follow up on that, because this
5 is quite remarkable to me. The whistleblower comes to you,
6 files a complaint. Even before you've finished your
7 preliminary review, even before you've transmitted it to the
8 director, you learn that the Office of Legal Counsel has been
9 engaged and is preliminarily of the opinion that you lack
10 jurisdiction to do the investigation. Is that right?

11 MR. ATKINSON: Yes. And I think when I'm hearing that,
12 I'm hearing that -- the answer is yes. I'm hearing that from
13 Mr. Klitenic and/or [REDACTED], who's hearing it from the
14 NSC legal adviser, Mr. Eisenberg, who is communicating with,
15 as I understand it, OLC. And that's the chain that it's
16 coming to me. And that's my recollection, that I knew that
17 was happening, you know, sometime around August 22nd, 2019.

18 THE CHAIRMAN: So at this point, while you're doing your
19 preliminary investigation, it's not even before the DNI.
20 It's not even before the DNI for the purpose of their review.
21 You're still doing the determination of whether this is
22 urgent and credible, and the OLC is already forming an
23 opinion that it is not urgent under the meaning of the
24 statute?

25 MR. ATKINSON: That's my best recollection. I need to

[REDACTED]

[REDACTED]

1 go back and check my notes, but that's my -- sitting here
2 today, that's my -- that's my best recollection.

3 THE CHAIRMAN: And so we have the prospect that a
4 whistleblower complaining of Presidential misconduct in which
5 there are multiple parties on the call, including potentially
6 people from the NSC, files a complaint with you to be given
7 to Congress; and even before you can finish the investigation
8 the NSC lawyers are weighing in with the Office of Legal
9 Counsel, and the Office of Legal Counsel is forming an
10 opinion that you lack the jurisdiction to do the
11 investigation and that the DNI does not need to provide this
12 information to Congress.

13 Do I have that chronology right?

14 MR. ATKINSON: Sitting here today, that's the best of my
15 recollection, which is one reason why in my August 26
16 transmittal, I went into much more detail than I thought was
17 necessary about the DNI's jurisdiction over election security
18 interference, because I was hearing through these
19 communications that there was a view that my office does not
20 have jurisdiction.

21 And I initially didn't think it was necessary --
22 initially meaning, you know, when I'm sitting down on August
23 22nd with Mr. Klitenic and [REDACTED] to alert them to the
24 matter. I didn't necessarily think at that point it was
25 necessary for me to go into great detail about the DNI's

[REDACTED]

1 responsibility over election security, but my recollection is
2 there were questions being raised about whether this activity
3 was within the DNI's jurisdiction, which is why -- one reason
4 why my August 26 transmittal goes into that sort of detail
5 about the DNI's responsibility for election security.

6 THE CHAIRMAN: And I can well understand your surprise,
7 because I have to say, as a member of this committee for over
8 a decade, the idea that the DNI lacks jurisdiction over
9 foreign interference in our election is absurd on its face,
10 for all the reasons you mentioned and all those you didn't
11 have time to mention.

12 And for OLC to contort, you know, itself or tie itself
13 into knots to come up with an opinion to justify the
14 nontransmittal of this information to Congress by declaring
15 the DNI has no authority over election interference really
16 calls into question the integrity of that office and whether
17 there was interference from the lawyers in the White House.
18 That's not a question; that's an observation on my part.

19 I'll yield back to my colleague, but I want to just
20 underscore how much I appreciate your professionalism and
21 your diligence and your courage, because, like everyone else
22 in this food chain involved with this complaint, many others
23 weren't willing to stick their neck out at all.

24 And when you wrote us that letter saying the process had
25 broken down, that was a perfect description of where we were,

1 because if a whistleblower can't come to the Congress with a
2 complaint because the subject of that complaint has a veto
3 effectively over our seeing it, then the process is really
4 broken in a dangerous way.

5 So I am grateful to you and, you know, much as the
6 whistleblower and the whistleblower's lawyers are being
7 careful, I hope you are being careful. I know I've had to be
8 careful. And I'm just very grateful to you.

9 MR. ATKINSON: Well, thank you, Chairman Schiff. I do
10 have -- sitting here, I also recalled one of the reasons that
11 we were trying to run down the funding for the security
12 assistance was also to try to shore up this jurisdictional
13 issue, which reminds me that we were -- there were questions
14 being raised before August 26 about whether we had
15 jurisdiction, because, you know, we would have looked at the
16 source of the funding for purposes of jurisdiction, but we
17 made -- we renewed our efforts to try to determine the source
18 of that funding, in part, because of these questions that
19 were being raised about our jurisdiction.

20 So I just wanted to -- that's just -- it's triggering a
21 memory about why we were really trying to run down the
22 security assistance when normally election interference would
23 seem to be sufficient for jurisdictional purposes.

24 THE CHAIRMAN: And, you know, I might also add that the
25 whistleblower's allegations weren't confined to that call.

1 They also involve allegations that a classified information
2 system was being misused to hide misconduct. That was a
3 covert action, among other things, classified files. So it
4 was inherently an intelligence issue if that intelligence,
5 classification is being misused.

6 What's more, the effort by others not on the call,
7 including Rudy Giuliani, to conduct a shadow foreign policy
8 and the counterintelligence risks that that presents, let
9 alone the counterintelligence risks presented by the
10 President's own conduct, all to me seem so squarely within
11 the jurisdiction and concern of the director.

12 [REDACTED]: Do you agree with that, Mr. Atkinson?
13 In other words, are there other rationales for why this would
14 fall within the jurisdiction of the DNI, separate and apart
15 from protecting against foreign election interference?

16 MR. ATKINSON: There are other activities related to
17 this complaint that I agree fall within the jurisdiction of
18 the DNI. Keep in mind, under the urgent concern statute,
19 that it has to be a serious or flagrant problem, abuse, or
20 violation of law related to the intelligence activity.

21 And so, in terms of the -- what was done with the
22 transcript or the call records, it was described as highly
23 unusual conduct, but -- and we were able to corroborate that
24 that -- it appeared credible that the allegation -- that the
25 records had been moved to a highly compartmented system. But

[REDACTED]

1 what we weren't able to corroborate in that 14 days was the
2 motive for why the records were moved.

3 So I was not in a position to say that the movement of
4 the records was a serious or flagrant problem, abuse, or
5 violation of law. But I agree with you that the treatment of
6 the records, from a classification standpoint, would seem to
7 fall within the jurisdiction of the DNI.

8 [REDACTED] I don't want to belabor this for too long,
9 but the -- prior to your transmitting -- well, prior to
10 August 23rd, when you showed the DNI -- the Acting DNI and
11 the general counsel the actual complaint and classified
12 annex, were you aware of whether anyone else other than the
13 whistleblower was in possession of the actual complaint and
14 classified annex?

15 MR. ATKINSON: No one, to my knowledge, was in
16 possession of the letter or the classified appendix, but keep
17 in mind that the complainant had shared the -- you know,
18 showed a copy or showed some information to the complainant's
19 two supervisors.

20 [REDACTED] To anyone else? Were you aware whether
21 the complainant showed it to anyone else prior to submitting
22 it?

23 MR. ATKINSON: No, not to my knowledge.

24 [REDACTED] Okay. So when OLC made this -- the OLC
25 made the preliminary determination that it was outside your

[REDACTED]

[REDACTED]

1 jurisdiction. was it your understanding they were basing that
2 solely on the July 25th call between President Zelensky and
3 President Trump?

4 MR. ATKINSON: That is how I -- I mean, OLC will have to
5 speak for itself. That is how I interpreted the OLC opinion.
6 In other words, instead of the flagrant problem, abuse, or
7 violation of law relating to an intelligence activity, they
8 were taking the position, it seemed to me, that the flagrant
9 problem, abuse, or violation of law had to occur during an
10 intelligence activity. And so because they took the position
11 that the call itself wasn't an intelligence activity, there
12 was no serious, flagrant problem or abuse that would occur
13 during that.

14 So my view was they just -- they took the statute, put
15 words in it that weren't there before. And instead of it
16 being related to an intelligence activity, their view was
17 that the problem, abuse, or violation of law had to occur
18 during an intelligence activity.

19 [REDACTED] And they also cite to the notion that the
20 subject of the complainant wasn't a member of the
21 Intelligence Community as a rationale as well. Is that
22 right?

23 MR. ATKINSON: That's right. Again --

24 [REDACTED] Is that an accurate reflection of the law?

25 MR. ATKINSON: That the President is not a member of the

[REDACTED]

1 Intelligence Community?

2 [REDACTED] No, that the statute requires the subject
3 of the complaint to be a member of the Intelligence
4 Community?

5 MR. ATKINSON: No, that's not a requirement.

6 [REDACTED] So what I'm really getting at is when they
7 did that preliminary analysis, did they do it solely based on
8 the July 25th call or did they consider the entirety of the
9 complaint and the classified appendix?

10 MR. ATKINSON: I don't know what the Department of
11 Justice used to base its decision.

12 [REDACTED] But you were not aware of how they would
13 be in possession of the complaint prior to August 26, at a
14 minimum, when you transmitted it to ODNI?

15 MR. ATKINSON: Could you ask your question one more
16 time, please?

17 [REDACTED] I'm just trying to understand. You said
18 the only two people you were aware who saw the complaint
19 prior to it being submitted to your office were the two
20 supervisors. You understood that the complainant had not
21 given the complaint to anyone else. You had it, and you had
22 not given it to anyone else.

23 So what I'm trying to understand is that preliminary
24 determination by OLC prior to your final determination, was
25 that based just on the July 25th call, or did they consider

1 somehow a complaint that they did not presumably have
2 possession of?

3 MR. ATKINSON: I understand the question. I don't know
4 what facts OLC was using to come up with its preliminary
5 view.

6 [REDACTED] Okay.

7 MR. ATKINSON: I do want to clarify one more thing. I
8 believe that the complainant shared the complaint and
9 classified appendix with a third person in the complainant's
10 management or supervisory chain, not that [REDACTED] gave a copy --
11 not that the complainant gave a copy to the individual to
12 keep, but just that [REDACTED] gave them I believe an opportunity to
13 review it.

14 [REDACTED] Okay. So just to clarify --

15 MR. ATKINSON: And then, just so I'm clear, you know,
16 our understanding is that the whistleblower did reach out to
17 the legal office for the element to which, you know, he or
18 she had a relationship with. I don't know what information
19 the complainant shared with the lawyers related to the
20 disclosure.

21 [REDACTED] And what information those lawyers may
22 have shared with the White House?

23 MR. ATKINSON: Correct.

24 [REDACTED] And this is going to seem like a basic
25 question, but I want to just make it very clear for the

[REDACTED]

1 record. The rationale for the OLC's opinion has nothing to
2 do with executive privilege, correct?

3 MR. ATKINSON: I think that is correct.

4 [REDACTED] So when you were told that the White House
5 Counsel's Office was getting involved for privilege
6 considerations, that was unrelated to the OLC involvement,
7 correct?

8 MR. ATKINSON: I understood that the reason the
9 complaint and classified appendix were being shared with the
10 White House was for a privilege review.

11 [REDACTED] Okay. But you understood that the White
12 House already knew about the subject of the -- the principal
13 subject of the complaint?

14 MR. ATKINSON: Yes, that was my understanding.

15 [REDACTED] And your understanding is that the White
16 House Counsel's Office was the go-between between ODNI and
17 DOJ OLC?

18 MR. ATKINSON: That's my -- that's my understanding,
19 yes.

20 [REDACTED] Okay. Is it your understanding that the
21 White House Counsel's Office brought the DOJ into the matter,
22 or were you not privy to that?

23 MR. ATKINSON: That's what I do not know.

24 [REDACTED] Okay. [REDACTED]

25 [REDACTED] All right. Just for the record, Mr.

[REDACTED]

[REDACTED]

1 Atkinson, I think you mentioned this early on in the
2 interview, but when specifically did you provide the written
3 complaint to either the Acting Director or the ODNI General
4 Counsel's Office, because if I understand, it was before
5 April -- sorry, September 26 -- August 26.

6 MR. ATKINSON: I provided it to both of them on the same
7 day, August 23rd, 2019.

8 [REDACTED] 23rd. And at what point, do you know when
9 they provided a copy to the White House?

10 MR. ATKINSON: I did not authorize -- I'm not in a
11 position to authorize the Acting DNI to do much, but I did
12 not -- I expressed -- they asked me whether they could share
13 a copy with -- the complaint and the classified appendix
14 outside of ODNI, and I said no, I didn't want that to happen.
15 And, to my knowledge, they honored that request.

16 And so, to the best of my knowledge, the complaint and
17 classified appendix did not go to the White House until
18 August 26th.

19 [REDACTED] So you asked that they not provide the
20 complaint before the transmittal date of the 26th, the formal
21 transmittal date. Do you know after that at what point they
22 transmitted the -- or they shared the complaint and your
23 determination with the White House?

24 MR. ATKINSON: I have a specific recollection of this,
25 because of what I testified earlier, where the whistleblower

[REDACTED]

1 was growing reluctant on the 14th day to consent to [REDACTED]
2 information being shared with the White House. That was
3 happening, you know, around 5 o'clock at night on that Monday
4 night on the -- on August 26.

5 And I remember that ODNI had a courier waiting to take
6 the complaint and the classified appendix to the White House.
7 And as soon as the whistleblower gave my office consent to
8 disclose the information to the White House, I walked the --
9 this is at ODNI's headquarters. I walked the -- my
10 transmittal letter and the complainant's letter and
11 classified appendix and handed it to Mr. Klitenic. That was
12 probably around 6 o'clock that evening or 7 o'clock that
13 evening. And they -- the courier had stayed, and they then
14 handed -- to my knowledge, they gave the information to the
15 courier to take down to the White House that night.

16 [REDACTED] i Wait. So Mr. Klitenic was the courier?

17 MR. ATKINSON: No, Mr. Klitenic was not the courier.

18 [REDACTED] So the White House received the complaint
19 and -- formally, at least, received the complaint and your
20 determination the evening of the 26th of August?

21 MR. ATKINSON: I can't confirm that, but that was my
22 understanding.

23 [REDACTED] But that's when it was couriered over to the
24 White House?

25 MR. ATKINSON: That's my understanding of -- that is

[REDACTED]

1 understanding. I have not confirmed that the courier
2 delivered it that night or anybody received it that night,
3 but that was my understanding, that it was -- the courier was
4 waiting and then it was delivered to the White House.

5 [REDACTED] And what was the complainant's concerns, a
6 reluctance until the complainant finally provided consent?

7 MR. ATKINSON: If I disclose the nature of the
8 complainant's concerns, it may lead to the identity of the
9 complainant, and it also relates to information that we were
10 not able to corroborate during the course of our
11 investigation.

12 [REDACTED] Understood. Thank you.

13 [REDACTED] Last question: Do you have email
14 communications about OLC involvement, White House involvement
15 during this time period, or was this all conducted over the
16 telephone?

17 MR. ATKINSON: It was primarily over the telephone and
18 in person.

19 [REDACTED] And in person, okay.

20 THE CHAIRMAN: That's it for us. Does the minority have
21 any questions?

22 [REDACTED] No, we do not.

23 THE CHAIRMAN: Mr. Atkinson, once again, our thanks. Do
24 you have something else you want to say?

25 MR. ATKINSON: Do you mind if I just make one more point

[REDACTED]

1 for the record?

2 THE CHAIRMAN: Of course, of course.

3 MR. ATKINSON: Okay. I've said this already; I want to
4 say it again. That the OLC opinion could have significant
5 implications not only for whistleblowers in the Intelligence
6 Community, but throughout the executive department. And I
7 think it's very important that people, whether they're
8 legislators or whether they're in the executive branch, who
9 care about whistleblowers take a hard look at the OLC's
10 opinion and understand the serious implications for
11 whistleblowers.

12 I know that the Council of the Inspectors General on
13 Integrity and Efficiency is reviewing the opinion. I know
14 that the other Inspectors General have very strong views on
15 the serious implications for whistleblowers that that opinion
16 has. And whatever can be done to strengthen the
17 whistleblower protections and to ensure that people who come
18 forward in this way are protected, I just think it's hard to
19 do too much in that effort.

20 THE CHAIRMAN: Well, I thank you. And, Inspector, we're
21 already writing our own post-Watergate reforms. This may
22 very well be one of them. It may be useful for the combined
23 Inspectors Generals to write to Congress, raising their
24 concern over how the breadth of this OLC opinion may leave
25 countless whistleblowers exposed or enormous wrongdoing

1 unexposed, because it chills whistleblowers from coming
2 forward.

3 The Acting DNI's reliance on that other statute that
4 protects people for coming forward, whether they're filing an
5 urgent concern or not, is a clear workaround a very flawed
6 opinion. And one of the reasons that I take such strong
7 issue with the Acting Director is, for an Acting Director of
8 National Intelligence to accept an opinion that says he has
9 no jurisdiction over election security when that is so
10 clearly not the case means that people in his workforce are
11 exposed.

12 And so we actually don't think any change to the statute
13 is necessary, because we think the statute is darn clear.
14 And given all the circumstances you laid out, we have
15 enormous concerns about White House involvement in the
16 production of that OLC opinion and the independence of that
17 office, indeed, the independence of the Department now, which
18 I came out of and you came out of and I have a lot of
19 veneration for.

20 So I thank you for raising that. That's a good note
21 probably to end our proceeding.

22 Did you have something?

23 So we are concluded and, once again, I thank you.

24 MR. ATKINSON: Thank you.

25 [Whereupon, at 4:57 p.m., the committee was adjourned.]

